



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 1096 OF 2025

AMJAD KHAN ANWAR KHAN

VERSUS

THE SUPERINTENDENT OF POLICE AND ANOTHER

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Shri Mantri Suraj Rajendra, Advocate for the Applicant.
Shri C.V. Bhadane, APP for the Respondents/State.

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CORAM : ADVAIT M. SETHNA, J.

DATE : 28 July 2025

P. C. :-

1. Heard the learned Advocates for the parties.
2. The Application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, as the Applicant apprehends arrest.
3. The proceedings relate to Crime No.1201/2024. FIR is dated 31 December 2024 at 23:17 hours by the Nanded Rural Police Station, District Nanded. The offences alleged are under Sections 111, 288, 310(5) and 310(4) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4 and 25 of the Arms Act. Occurrence of offence is shown as 31 December 2024 at 17:40

hours. There are five accused persons along with some unknown persons as noted in the FIR, out of which, accused No.4 is the present Applicant before this Court.

4. It appears from the FIR that the Applicant along with other accused persons had gathered near Maltekadi Railway Station and were attempting to commit dacoity. Upon receiving this information, the Police visited the spot and found that the accused were armed with weapons and had made preparations for committing dacoity. After seeing the Police, four accused persons fled from the scene and other accused, who were arrested, were found in possession of sword, dagger and three vehicles. The statements of the arrested accused were recorded and in such statements, which were recorded during the course of investigation, the name of the present Applicant surfaced. The name of accused No.5 was also revealed from such statement of the co-accused.

5. The learned Advocate for the Applicant would submit that accused Nos.1, 2 and 3 are released on regular bail by the Trial Court. Accused No.5 has been granted anticipatory bail by this Court vide order dated 23 April 2025 by which

interim protection order dated 28 March 2025 is confirmed.

6. The learned APP would vehemently opposed the application on the ground that the offences alleged are extremely serious in nature. Though it was preparation of dacoity, the plan did not materialize. He would draw the Court's attention to the statement of accused No.5 to submit that the said accused person has *inter alia* stated that it is the present Applicant who called other persons to be present on the spot with common intention to commit the said offence of dacoity. Thus, his role, according to the prosecution, is crucial in commission of the alleged offence.

7. The learned Advocate for the Applicant would submit that a bare perusal of the FIR would show that neither is the name of the Applicant appeared nor is any specific role attributed to him. At the most, it can be stated that the Applicant was only present on the spot and that too such revelation came from the statement of the co-accused recorded during the course of investigation.

8. At this stage, it may be apposite to refer to the recent judgment of the Honourable Supreme Court dated 16 March 2025 in ***P. Krishna Mohan Reddy vs. The State of Andhra***

Pradesh, 2025 INSC 725, wherein, the Honourable Supreme Court *inter alia* observed that the statements of the accused persons recorded under Section 161 of the Code of Criminal Procedure, cannot be used against other co-accused at the stage of grant of anticipatory bail or regular bail applications.

9. In the above facts and circumstances, even if the FIR is taken at its face value, there is no specific role attributed to the Applicant and his involvement surfaced only from the statement of the co-accused, who was arrested. The offence was at the stage of preparation and has not gone any further. There are no criminal antecedents against the Applicant. Other accused persons are released on regular bail by the Trial Court. Accused No.5, who is part of such gang which alleged to have committed dacoity, has been granted anticipatory bail by this Court.

10. Mr. Bhadane would strongly oppose the Application. However, considering the factual conspectus in the present case as noted above, in my view, a *prima facie* case is made out by the Applicant for grant of anticipatory bail as noted above. The Applicant has also undertaken to continue to cooperate with the investigation. He has no criminal antecedents. Thus, custodial

interrogation would serve no purpose. Hence, the following order would meet the ends of justice:-

ORDER

(i) In the event of arrest of the Applicant in connection with C.R. No.1201/2024 registered with Nanded Rural Police Station, Dist. Nanded for the offences punishable under Sections 111, 288, 310(5) and 310(4) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4 and 25 of the Arms Act, the Applicant is directed to be released on bail on furnishing PR bond in the sum of Rs. 20,000 (Rupees Twenty Thousand Only) with one solvent surety in the like amount.

(ii) The Applicant shall attend the concerned Police Station as and when required by the Investigating Officer till the filing of the charge sheet. He is further directed to co-operate in the investigation.

(iii) The Applicant shall furnish details of residential address and other contact details such as the mobile number etc. to the concerned Police Station. If there is any change in the contact details, the same shall be immediately informed to the concerned Police Station.

(iv) The Applicant shall not leave the jurisdiction of the Court without prior permission of the Court, subject to further orders / until filing of the charge-sheet.

(v) The Applicant shall not contact and/or

influence the witness/es and/or tamper with the evidence in any manner whatsoever.

11. **The Anticipatory Bail Application is allowed in the above terms.** However, it is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this application.

kps

(ADVAIT M. SETHNA, J.)