



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

9 ANTICIPATORY BAIL APPLICATION NO.1657 OF 2025

Ayaz Azim Pathan

... Applicant

VERSUS

The State of Maharashtra and Others

... Respondents

.....

Shri. Nasimoddin R. Shaikh, Advocate for the Applicant

Shri. S. K. Shirse, APP for the Respondent – State.

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CORAM : NEERAJ P DHOTE, J.

Dated : SEPTEMBER 22, 2025

PER COURT :-

. Heard the learned Advocate for the Applicant. Perused the papers on record.

2. Earlier the Applicant had moved Anticipatory Bail Application No.1562 of 2024 before this Court, which was dismissed as withdrawn by order dated 25.10.2024. The said order reads thus :

“1. After hearing the learned counsel for the applicant, the learned APP for the respondents-State and learned counsel for respondent No.3, the Court expressed disinclination to grant anticipatory bail. The learned counsel for the applicant, on instructions, seeks leave to withdraw the anticipatory bail application.

2. Leave granted.

3. Anticipatory bail application stands dismissed as withdrawn.”

3. The Crime bearing No.0283/2024 came to be registered at the instance of the Prosecutrix with the Ghargaon Police Station,

Dist. Ahmednagar for the offences punishable under Sections 137(2), 87, 123, 64(2), 351(2), 49, 74, 75, 78, 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, 'BNS') and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO'). Since the Applicant is one of the Co-accused, he has preferred this Application under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, 'BNSS) for Anticipatory Bail.

4. It is submitted by the learned Advocate for the Applicant that, though earlier Bail Application was withdrawn, the Applicant has filed successive Bail Application. He cited the decision of the Hon'ble Supreme Court of India in *Rani Dudeja vs. State of Haryana, 2017 LISoft (SC) 273*, wherein it is observed that, '*On change of circumstances, when another application under Section 438 Cr.P.C. was filed, the High Court should have considered the same on merits. The principle of res judicata could not have operated in an application for bail.*'

5. It is the case of the Prosecution that, the Prosecutrix came in contact with the Accused No.1. They started talking to each other. The Accused No.1 expressed his love towards the Prosecutrix. They started meeting. The Accused No.1 clicked her photographs. The Accused No.1 threatened the Prosecutrix to make the photographs viral.

This happened in the year 2020-2021. In the year - 2023, the Prosecutrix took admission for Pharmacy Course at Otur, Tal. Junnar. Accused No.1 asked the Prosecutrix to marry and started blackmailing her. The Co-accused - Yusuf was assisting the Accused No.1. On 07.07.2024 when the Prosecutrix started going towards hostel, the Accused persons came in Motor Car and the Prosecutrix boarded the vehicle. The Accused Nos.1 and 2 told the Prosecutrix that, they will go and meet the Advocate. The Prosecutrix doubted their intention. The Accused Nos.1 and 2 threatened her. The Accused No.2 gave water to the Prosecutrix. Thereafter, she felt giddiness. They changed the vehicle. The Prosecutrix was taken to Mumbai. The Applicant, who is Accused No.4, met them and by giving threat to the Prosecutrix, sent the Prosecutrix and Accused No.1 to one hotel at New Bombay. The Accused No.1 committed sexual intercourse with the Prosecutrix in the hotel by threatening her. On 08.07.2024 the Prosecutrix was taken to one mall. Thereafter, in the evening, the Accused No.1 committed sexual intercourse with her. On 10.07.2024 the Prosecutrix was taken by the Accused Nos.1 and 2 to the Office of Superintendent of Police and they threatened the Prosecutrix not to tell anything against them. The Accused No.1 told the Police that he had married the Prosecutrix. The Police took them to Ghargaon Police Station. On the Statement of the Prosecutrix, the aforesaid Crime came to be registered.

6. It is submitted by the learned Advocate for the Applicant that, the Prosecutrix was major by age and she had voluntarily accompanied the Accused Nos.1 and 2. There are no accusations of sexual intercourse against the Applicant. The only role attributed to the Applicant is that, he intimated the Prosecutrix and assisted to go to the hotel. There was love affair between the Accused No.1 and the Prosecutrix. He submits that, the Application be allowed.

7. On going through the FIR and the other papers, though it is nowhere the case of the Prosecutrix that the Applicant committed sexual intercourse with her, the allegations against the Applicant is that he threatened the Prosecutrix and sent her along with Accused No.1 to the Hotel. It shows that the Applicant assisted the Co-accused in the commission of the Crime. The Crime is registered for the severe offences under the BNS and also under Sections of POCSO. Though the Charge-sheet is filed, in my considered view, this is not the fit case to exercise the discretion under Section 482 of the BNSS. Hence, the order.

ORDER

(i) The Application is rejected.

(NEERAJ P. DHOTE, J.)