



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

ANTICIPATORY BAIL APPLICATION NO. 1903 OF 2025

**1. AJAY ALIAS BICHYA RAJAK KALE
2. ADISHOK CHANDRABHAN CHAVHAN**

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicants : Mr. Tungar Hrishikesh V.

APP for Respondent/State : Mr. K.N. Lokhande

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CORAM : MEHROZ K. PATHAN, J.

DATE : 15th DECEMBER 2025

PER COURT :

1. Heard the learned Counsel for the Applicants and the learned APP for the State.

2. The Applicants have approached this Court, seeking anticipatory bail in connection with Crime No.44/2025 registered with Chakalamba Police Station, District Beed for the offences punishable under Section 311 of the Bharatiya Nyaya Sanhita, 2023.

3. The case of the prosecution is that the Informant/Ganesh Takle lodged an FIR on 28.01.2025 stating that on 27.01.2025 he, his wife, son/Mahesh and daughter-in-law/Sonali were sleeping after having dinner. At about 01:00 am., on 28.01.2025, 4 to 5 unknown persons wearing shirt, jacket and pant with masks on their faces came and assaulted the Informant and his family members and under

the threat of knife, they asked all of them to sit in front of the platform on the front side of his house. They searched the entire house and courtyard. They assaulted Informant's wife with stick causing bleeding injury on her head. They dug out the steel container with gold ornaments, committed theft of jewellery worth Rs.1,96,000/-. Hence the FIR came to be registered.

4. It is the submission of the learned Counsel for the Applicant that the Applicant is not named in the FIR and has been implicated solely on the basis of suspicion. The prosecution has relied upon the statement of a co-accused who was arrested in another case i.e. Crime No. 45/2025, registered on the same date, i.e., 28.01.2025. It is submitted that the statement of a co-accused cannot be relied upon as substantive evidence, and that the Applicant may be released on anticipatory bail, as he is ready to abide by any conditions that may be imposed by this Court. The learned Counsel for the Applicant further relies upon the judgment of the Single Judge of the Hon'ble Bombay High Court, Aurangabad Bench, dated 14.03.2022 in ABA No. 208/2022, to support his submission that the evidentiary value of a co-accused's statement is nil. He further relies upon the judgment of the Hon'ble Supreme Court in the matter of **P. Krishna Mohan Reddy Vs. State of Andhra Pradesh**, wherein the Hon'ble Court has observed as under :

"In other words, a police statement of an accused which is in the form of a confession is per se inadmissible and no reliance whatsoever can be placed on such statements either at the stage of bail or during trial. Since such

confessional statements are rendered inadmissible by virtue of Section 25 of the Evidence Act, the provision of Section 30 would be of no avail, and no reliance can be placed on such confessional statement of an accused to implicate another co-accused.”

. Thus the learned Counsel for the Applicant submits that as per the judgment cited above, the confessional statement of the co-accused does not have any evidentiary value and there was no other evidence to implicate the Applicant and as such the Applicant may be released on bail.

5. As against this, the learned APP opposes the present application on the ground that the Applicants, along with five other accused persons, committed robbery and dacoity at two places. The first incident occurred at the house of Ganesh (the complainant) at about 01:00 a.m. The second offence was committed at about 02:00 am. on the same day, at the house of Ashok Kale, who is also a resident of the same village. Accordingly, the present FIR has been registered as No. 44/2025, whereas Ashok's FIR has been registered as No. 45/2025 on 28.01.2025. It is alleged that the Applicants, along with other co-accused persons, committed another offence at Bargajwadi, Shirur Kasar, in Shirur. Accordingly, FIR No. 47/2025 dated 26.02.2025 was registered against unknown persons. The Applicants were thereafter arrested by the Local Crime Branch, Beed, in Crime No. 47/2025 on suspicion. During custodial interrogation, other co-accused persons, namely Avinash Kale, Rajak Janardhan

Kale, and Babasaheb, were also arrested on 18.03.2025. Upon interrogation in the aforesaid crime, they confessed to have committed the offences registered under FIR Nos. 44/2025 and 45/2025, both punishable under Section 311 of the Bharatiya Nyaya Sanhita.

6. After their arrest in Crime No. 47/2025, the accused were taken into custody for interrogation in connection with Crime No. 45/2025. During the course of investigation, one of the co-accused/Babasaheb, voluntarily recorded a memorandum under Section 23 of the Bharatiya Nyaya Sanhita, which led to the recovery of gold ornaments. In the said memorandum, he also disclosed the names of all the accused persons, including the present Applicants, Ajay Rajak Kale and Adishok Chandrabhan Chavan. The said accused Babasaheb, had thus confessed to have committed the present Crime No. 44/2025 and, pursuant to his disclosure, the following articles were recovered:

(i) 10 grams gold necklace worth Rs.35,000/-

(ii) 7 grams gold chain worth Rs.23,000/-

. These articles pertain to Crime No. 44/2025.

7. In connection with Crime No. 45/2025, the arrested accused/Babasaheb Chavan, also led to the discovery of the following articles:

(iii) 6 grams gold earring worth Rs.25,000/-

(iv) 6 grams gold chain worth Rs.25,000/-

. The said articles were seized in the presence of panch witnesses and duly documented. Thus, the role of the present Applicants has been clearly revealed through the custodial interrogation of the arrested co-accused/Babasaheb Chavan. The learned APP submits that, in view of the evidence collected by the prosecution from the arrested co-accused, who has confessed to having committed Crime No. 44/2025 with the assistance of the present Applicants, the custodial interrogation of the Applicants is necessary to further investigate the offence and recover the remaining stolen articles which are yet to be traced. He therefore submits that this is not a fit case for the grant of anticipatory bail. Considering the criminal antecedents of the present Applicants, who are involved in three theft cases including the present one, there is every likelihood that, if released on bail, they may again commit similar offences of theft.

8. I have gone through the investigation papers made available by the learned APP. A perusal of the same reveals that the Applicants are named by the co-accused to have allegedly committed theft on 28.01.2025, initially at the house of Ganesh Takle at about 01:00 am. Various articles were stolen during the said robbery by the Applicants along with other co-accused persons, as stated in the present FIR No.44/2025. Thereafter, the gang of dacoits proceeded to commit another dacoity at the house of Ashok Kale in Georai Village and committed the offence of robbery at about 02:00 am. on the same day, i.e., 28.01.2025. Accordingly, another offence was registered at

the same police station as FIR No. 45/2025. The police papers further reveal that the son of the complainant, namely Mahesh, sustained a simple injury to the chest caused by a hard and blunt object. The wife of the informant, Gangubai, was also medically examined, and the injury certificate indicates that she sustained three simple injuries, also caused by a hard and blunt object. The statements of all the family members of the complainant who were present at the time of the incident were recorded. The other co-accused came to be arrested in Crime No. 47/2025, and thereafter, the custody of the accused persons was taken in Crime No. 45/2025. In the course of that investigation, one of the co-accused/Babasaheb Chavan, recorded a memorandum under Section 23 of the Bharatiya Nyaya Sanhita, which led to the recovery of several stolen articles, including the following items related to the present crime :

- (i) 10 grams gold necklace worth Rs.35,000/-
- (ii) 7 grams gold chain worth Rs.23,000/-.

. The perusal of the statement of the arrested co-accused reveals that the Applicants were part of the gang that committed the robberies on the date of the incident, i.e., 28.01.2025, not only at the house of Ganesh Takle but also at the house of Ashok Kale.

9. The learned Counsel for the Applicants relies upon two orders passed by the learned Sessions Court granting anticipatory bail to the Applicants in Crime Nos. 45/2025 and 47/2025, to submit that their custodial interrogation may not be necessary and that they are ready to abide by any conditions imposed by the Court. It is

pertinent to note that the learned Additional Sessions Judge, Beed, has rejected the anticipatory bail application of the present Applicants in Crime No. 44/2025 vide order dated 24.09.2025, observing that the names of the Applicants were revealed during the custodial interrogation of the other co-accused. Merely because the Applicants are not named in the FIR, it cannot be said that they are not concerned with the alleged crime, especially when their names have been disclosed by co-accused Babasaheb, from whom part recovery of the stolen articles was effected.

10. It is almost a settled law that although the statement of a co-accused does not carry substantive evidentiary value, such a statement can nevertheless be relied upon by the prosecution for the purpose of investigation.

. Thus, taking into consideration the nature of the allegations and the material collected by the prosecution, particularly the recovery of stolen articles pursuant to the memorandum of the arrested accused/Babasaheb Chavan, who has also named Applicants to be accomplice and the identification of those articles by the complainant and his family members, I am not inclined to exercise discretion in favour of the Applicants. The application accordingly stands rejected and disposed of.

MEHROZ K. PATHAN
JUDGE