



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 764/2025

SAHIL LIYAKAT SAYYAD

..APPLICANT

VS

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Aditya Raktade a/w. Adv. Dnyanesh Patil for applicant.
Ms. Supriya Kak, APP for State.
PI P. R. Patil, State Excise, Pune.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 2, 2025.

P.C. :

1. This application is filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for seeking pre-arrest bail in connection with the First Information Report (FIR) No.207/2023 registered with the State Excise Department, Kolhapur, for the offence punishable under Sections 65(a), 65(e), 80(1), 83(a) and 108 of the Maharashtra Prohibition Act, 1949 (for short 'the said Act').

2. The offence is registered under Section 65(a) of the Maharashtra Prohibition Act. As the police have seized the foreign liquor which was illegally transported to Maharashtra by a vehicle near to the border of Maharashtra and Goa. The present applicant is

termed as main person involved in the crime, which has come in the statement of the two co-accused. There are at least three antecedents reported against the present applicant, out of which one crime is registered under Section 65 and Section 108 of the said Act. Out of the five accused persons, three accused persons have been granted regular bail and one accused person is absconded. The anticipatory bail application filed by the present applicant was rejected by the Sessions Court on 4/9/2023. Thereafter, the present anticipatory bail application has been filed in this Court on 17/3/2025, i.e. after a period of one and half year from rejection of pre-arrest bail by the Sessions Court.

3. It is submitted on behalf of the applicant that there is no recovery to be made from the present applicant as police have also seized the vehicle and the foreign liquor boxes from the spot. The applicant is a truck driver on a vehicle and therefore, he travels all over the country. The applicant is ready to cooperate with the police. Out of the five accused persons at least three have been granted regular bail. No purpose will be served if the applicant is arrested. The applicant is ready to cooperate with the police.

4. The learned APP appearing for the State submits that the pre-

arrest bail application was rejected by the Sessions Court on 4/9/2023. For one and half years, the applicant did not file any application for pre-arrest bail with this Court. The applicant claims to be driver of the vehicle and in fact as per the IO the applicant is a manager of the business which is conducted by accused no.5. Thirty boxes containing foreign liquor were transported in a vehicle from Goa to Maharashtra when the raid was conducted. Against the present applicant there are three criminal antecedents reported, one of which is under Sections 65 and 108 of the Maharashtra Prohibition Act.

5. I have heard the learned counsel for the applicant and the learned APP appearing for the State. I have also gone through the FIR and the documents on record.

6. As per the prosecution, the applicant is working with accused no.5 who is the main person involved in the offence. In the statement recorded of the co-accused they have stated that it is third round which they were executing on behalf of the owner by taking foreign liquors illegally from Goa to Maharashtra for sale. Both the accused have named the present applicant as the main person who is conducting this business. The physical presence of the present

applicant is necessary for the purpose of interrogation.

7. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar*

*C.K. and another*¹ in paragraph 12 has held as under :-

“12..... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused. Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

8. A similar view has been taken by the Supreme Court in the case of the *C.B.I. vs. Anil Sharma*², in paragraph 4 which reads as under:-

“4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders.”

(Emphasis supplied)

9. Considering the fact that there are criminal antecedents reported against the present applicant one of which is under the Maharashtra Prohibition Act, the accused was absconding even from the date of the order passed by the Sessions Court on 4/9/2023. There is likelihood of the applicant if granted pre-arrest bail and will not be available for investigation. The goods worth Rs.19,62,400/- were seized in the raid. The co-accused have made statement that three rounds were completed by them of taking illegal liquor from Goa and Maharashtra.

10. Considering the gravity of the offence committed and the law laid down by the Supreme Court as noted above, I am not inclined to grant any protection to the applicant. **The anticipatory bail application of the applicant stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)