



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

ANTICIPATORY BAIL APPLICATION NO. 776/2025

VITTHAL KIRAN WAIDANDE

..APPLICANT

VS

STATE OF MAHARASHTRA

..RESPONDENT

Adv. Tejesh Dande a/w. Adv. Mansi Dande, Adv. Sarvesh Deshpande,
Adv. Pratik Sabrad, Adv. Bharat Gadhavi, Adv. Trushna Shah, Adv.
Aniket Shitole for applicant.

Mr. A. S. Shalgaonkar, APP for State.

API V. R. Patil, Pandharpur Taluka Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : MARCH 26, 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.50/2025
registered with the Taluka Police Station, Pandharpur, for the offence
punishable under Sections 140(3), 140(4), 3(5), 115(2), 126(3),
351(2) of the Bhartiya Nyaya Sanhita, 2023.

2. In the complaint lodged which forms a part of the present FIR
the role of the present applicant has been mentioned. So also, the

name of the present applicant has been mentioned in the remand report dated 27/2/2025. The present applicant is accused no.4. Accused nos.1 to 3 have been arrested and are behind bars.

3. The learned counsel for the applicant submits that the applicant is ready to cooperate with the police. He submits that the applicant and the victim are from the same village and known to each other. He submits that the mobile phone of the victim was not switched off on the date of the incident. The victim came back to the house after two hours. He submits that there is no evidence against the present applicant and the custody is not necessary.

4. The learned APP submits that the accused nos.1 and 2 were arrested on 21/2/2025 and accused no.3 was arrested on 4/2/2025. He submits that accused no.3 arrested on the information received on the CDR of the accused. He submits that the IO has information that on the date of the incident there were at least forty calls between the present applicant and accused no.3 and around thirty-five calls between the applicant and accused no.1. He submits that there was no reason for the present applicant to make so many calls to the arrested accused. The offence is very serious offence of kidnapping. The accused themselves in their statements has given the mentioned

the name of the present applicant. So also, the witnesses has named the present applicant as part of the crime. The present applicant has absconded from the date of the incident till date. The applicant is not cooperating with the police, therefore, the custody of the present applicant is necessary.

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

6. The fact remains that the offence in the present crime is that of kidnapping the son of the informant. Out of the four accused, three accused are behind bars. The present applicant on the date of the incident had at least made 40 calls to accused no.3 and thirty-five calls to accused no.1. This information has been received by the IO through CDR of the present applicant and the accused persons. Accused no.3 was arrested on the basis of the CDR record. The investigation is still in progress. The statement of the accused persons and the witnesses and the CDR record are enough to suggest that the present applicant is part of the present crime committed by the accused persons. The physical presence of the present applicant is necessary for the purpose of interrogation. Hence, no case is made

out to grant pre-arrest bail to the present applicant.

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

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

“..... 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

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

insulated by a pre-arrest bail 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. Taking into consideration the FIR, the documents on record and considering the view taken by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicant. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)