IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3373 OF 2025

ARJUN VITTHAL KUDHEKAR
Digitally signed by ARJUN VITTHAL KUDHEKAR
Date: 2025.12.24 22:31:40 +0530

Charles Nevis Fernandes …Applicant

Versus

The State of Maharashtra …Respondent

Mr. Kushal Mor (Through Video Conferencing) a/w Tanvir Kazi & Apoorv Srivastava, for the Applicant.
Mr. S. M. Mangaonkar, APP, for the Respondent-State.
A.P.I. Vishal Mahadev Dandge, Lashkar Police Station, Pune, present.

CORAM: MADHAV J. JAMDAR, J.
DATED: 24 DECEMBER 2025

PC:-

1. Heard Mr. Kushal Mor, learned Counsel appearing for the Applicant and Mr. Mangaonkar, learned APP for the Respondent-State of Maharashtra.

2. By the present Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* ("**BNSS**"), the Applicant is seeking pre-arrest bail in connection with CR No.213 of 2018 registered with Lashkar Police Station, Pune, for the offences punishable under Sections 8(c) and 22(b) of

the *Narcotic Drugs And Psychotropic Substances, Act, 1985* ("**NDPS Act**").

3. As per the prosecution case, Co-Accused - Natraj was found in possession of 23 grams Cocaine and during investigation the role of the Applicant is revealed that the Co-Accused received 31 grams Cocaine from the Applicant

4. It is required to be noted at this stage that the incident in question is dated 10th October 2018. FIR is registered on 10th October 2018. The Applicant left for South Africa on 13th October 2018 and as his VISA expired on 6th December 2021 he has returned to India on 4th May 2023.

5. It is also required to note that the Applicant, in his Anticipatory Bail Application, has stated on Page Nos.9 and 10 in Clause (d), as follows :-

> "*d. Upon perusal of the chargesheet, it is seen that the officers of the Respondent conducted visits on two occasions on **12.10.2018 and 14.10.2018**, (Page No.32, 48, 49 & 50 of the Chargesheet) to the address of the Applicant, i.e., Flat No.108, A Wing, Kohinoor Vayona Society, Behind Hotel Ginger, Ambedkar Chowk, Pimpri,*

Pune. It is respectfully submitted that the Applicant was not residing at the given address, a fact duly affirmed by his Late father, Mr. Nevis Martin Fernandes, and his brother, Mr. Austin Nevis Fernandes, respectively. Except for the aforementioned visits, no further efforts have been made by the officers of the Respondent to notify or intimate the Applicant regarding the registration of the said offence in his name. Therefore, without following due procedure, the officers of the Respondent could not have declared the Applicant as an absconder in the chargesheet."

6. Thus, what the Applicant has stated that on 12th October 2018 and 14th October 2018 the Officers of the Respondent conducted the visits to the address of the Applicant i.e. Flat No.108, 'A' Wing, Kohinoor Vayona Society, Behind Hotel Ginger, Ambedkar Chowk, Pimpri, Pune and that his father and brother stated that the Applicant is not residing at the said address. It is significant to note that the Applicant has given the same address in this Anticipatory Bail Application as his residential address. Thus, it is clear that a clear attempt has been made to mislead the Police Officials.

7. It is further required to be noted that the learned Additional Sessions Judge while rejecting the Anticipatory Bail Application, has held that the Accused is declared as absconder and in fact look out notice has also been issued against him.

8. The Supreme Court in the case of ***Lavesh v. State (NCT of Delhi)***[1], has held that if the Applicant is not available for interrogation and investigation and was declared as absconder, then normally when accused who is "absconding" shall not be granted anticipatory bail. It has been held that if a person is absconding or concealing himself, then he is not entitled to the relief of anticipatory bail.

9. This is a case where the Applicant has been declared as absconder and look out notice has also been issued against him.

10. It is the submission of learned Counsel for the Applicant that the proper procedure has not been followed while declaring the Applicant as absconder. However, the same is a separate issue. What is important to note is that the Applicant was not available for interrogation. This is a serious case where the office is under the NDPS Act.

11. Although the Applicant is staying at the same premises where the Applicant's father and brothers are staying, falsely it is

---

1 (2012) 8 SCC 730

stated to the Police Officer who conducted the visits that the Applicant is not staying in the said premises.

12. The Supreme Court in the decision of ***Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. State of Maharashtra*** [2], has held that the anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences.

13. The Supreme Court has further held in the case of ***State Rep. By the C.B.I. v. Anil Sharma***[3] that the custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who has been granted favourable order under Section 438 of Code of Criminal Procedure, 1973 (i.e. Section 482 of BNSS). It has been held that, in serious crime for effective interrogation of a suspected person custodial interrogation is necessary.

14. This is a case where the offence is under the NDPS Act. The Applicant has already been declared as absconder. In fact, the look out notice is issued against him.

---

2 2025 SCC OnLine SC 1489

3 (1997) 7 SCC 187

15. Accordingly, the Anticipatory Bail Application is dismissed.

[MADHAV J. JAMDAR, J.]