

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.328 OF 2024

Sumedh More & Anr.

...Applicants

Versus

The State of Maharashtra & Anr.

...Respondents

Ms. Gargi Warunjikar, for the Applicants.

Ms. R. V. Newton, APP for the Respondent-State.

Mr. Anand Mohan a/w Abhishek Shrivastava, Aditi Sharma & Kirthika,
for Respondent No.2-First Informant.

CORAM: MADHAV J. JAMDAR, J.

DATED: 07 NOVEMBER 2025

P.C.:

1. Heard Ms. Gargi Warunjikar, learned Counsel appearing for the Applicants, Ms. Newton, learned APP for the Respondent-State of Maharashtra and Mr. Anand Mohan, learned Counsel appearing Respondent No.2 - First Informant.

2. The Applicants i.e. Accused Nos.1 and 2, by this Anticipatory Bail Application filed under Section 439 of the *Code of Criminal Procedure, 1973* ("CrPC"), are seeking pre-arrest bail in connection with CR No.1205 of 2023 registered with the Hinjawadi Police Station, Pimpri-Chinchwad, Pune, for the offences punishable under Sections 379, 403, 406, 418 and 420 of the *Indian Penal Code, 1860*, Sections 43 and 66 of

the *Information Technology Act, 2000* and Section 447 of the *Companies Act, 2013*.

3. It is the submission of Ms. Warunjikar, learned Counsel for the Applicants, that the Applicants have been granted pre-arrest bail by Order dated 24th September 2024 passed by the learned Additional Sessions Judge, Pune in Criminal Bail Application No.6958 of 2023. She states that, however, a condition was imposed that the Applicant should surrender to the Investigating Officer and the Investigating Officer to interrogate and recover the muddemal property within twenty four hours from the time of surrender by the Applicants and after completing the interrogation and recovery of muddemal the Investigating Officer shall release the Applicants on bail after twenty four hours. She submits that no such direction can be imposed. She further points out the Order dated 4th October 2024 passed by a learned Single Judge (Coram: Manish Pitale, J.) by which the said direction was stayed. She therefore submits that the Criminal Application be disposed of in terms of the said Order dated 4th October 2024 passed by the learned Single Judge.

4. On the other hand, Ms. Newton, learned APP for the Respondent-State of Maharashtra and Mr. Anand Mohan, learned Counsel for the First Informant, strongly oppose the Application. Both of them submit that the learned Additional Sessions Judge has rightly passed the Order

and therefore Criminal Application be dismissed. Mr. Mohan, learned Counsel points out the decision of the Supreme Court in the case of ***Gurbaksh Singh Sibbia v. State of Punjab***¹ and more particularly Paragraph No.43 of the same.

5. The prosecution case is set out in Paragraph No.3 of the Order dated 24th September 2024 passed by the learned Additional Sessions Judge, Pune in Criminal Bail Application No.6958 of 2023. The said Paragraph No.3 reads as under :-

“3] It is the story of the State that the accused persons and the informant entered into the agreement to establish the company in the name and styled ‘Nas Mycotech’ for biodegradable packaging business. They established the said company on 29.01.2019. They had taken the rented premises for the said company to run their business. Applicant-accused No.1 and 2 are the wife and husband. The informant and both the accused became the directors of the said company and each was entitled for 33% shares. Thereafter, the work was started and the experiments were done for manufacturing packaging materials. The applicant-accused No.1 Namrata was to invent and develop the experimental data. The informant was to expend the money for the said purpose. As applicant-accused No.1 had undertaken that he would work hard for inventing and developing the data, the informant invested more than Rs.5.00 lakhs for the same. On 10.02.2021 the patent for the same was sanctioned and the informant as well as both the applicants accused became the co-owners of the said patent. Hence, the agreement was executed on 14.02.2021 to the effect that all of them had equal rights on the said intellectual property. However, thereafter, applicant-accused No.1 dishonestly moved the second patent application on 10.12.2021 behind the back of the informant. The informant came to know this fact on

1 (1980) 2 SCC 565

19.01.2023. Therefore, the informant opposed the said second application for patent. The informant asked to the accused about the same. Thereafter, the agreement was executed on 03.02.2023 to admit the informant as a co-owner in the said patent. Thereafter, on 24.03.2022 the applicant-accused No.1 gave the resignation to the said company. But the same was not accepted. Thereafter, informant came to know that the applicant accused establish new company in the name 'Kawak Greentech Pvt. Ltd.' on 28.04.2022 which was of the same nature and for the same business as that of the Nas Mycotech company. The applicant-accused No.1 was now running the said Kawak company. The applicant-accused was using unlawfully the instruments for her Kawak company, which were purchased for the Nas Mycotech Company without any permission from the informant. Those instruments were stolen by the accused. So also, the applicant-accused used the data, information and technology unlawfully which was developed for the Nas Mycotech Company. As such, the applicant accused deceived the informant."

6. The learned Additional Sessions Judge has observed that the Applicants are entitled for anticipatory bail by imposing conditions and therefore passed the following operative Order :-

"ORDER

- (i) The application is partly allowed.
- (ii) The applicants/accused Mrs. Namrata Dhananjay Deo and Mr. Sumedh Atul More are directed to surrender themselves to the Investigating officer in connection with the CR. No. 1205 of 2023 registered by the Police Station, Hinjewadi for the offences punishable under Sections 379, 403, 406, 418, 420 r/w 34 of the I. P. C., Sections 43, 43(a), 66 of Information Technology Act and Section 447 of Companies Act, within ten days of this order in a day time at 10.00 a.m. The Investigating Officer may interrogate and recover the muddemal property within twenty four hours from the time of

surrender by the applicants/accused. After completing the interrogation and recovery of muddemal, the Investigating Officer shall release the applicants/accused on bail after twenty four hours on their executing P.R. Bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with one or two solvent sureties each, in the like amount.

(iii) The applicants/accused are further directed to attend the Police Station, Hinjewadi as and when called by the Investigating Officer for the purpose of investigation till filing of the charge-sheet and co-operate in the investigation.

(iv) They are further directed not to give any threat, inducement or promises to the prosecution witnesses and not to tamper any prosecution witness, in any way.”

7. Mr. Anand Mohan, learned Counsel for the First Informant, states that the condition which was imposed by the learned Additional Sessions Judge can be imposed and relies on the decision of the Supreme Court in ***Gurbaksh Singh Sibbia*** (supra) and more particularly Paragraph No.43 of the same. The said Paragraph No.43 reads as under :-

“43. During the last couple of years this Court, while dealing with appeals against orders passed by various High Courts, has granted anticipatory bail to many a person by imposing conditions set out in Section 438(2) (i), (ii) and (iii). The court has, in addition, directed in most of those cases that (a) the applicant should surrender himself to the police for a brief period if a discovery is to be made under Section 27 of the Evidence Act or that he should be deemed to have surrendered himself if such a discovery is to be made. In certain exceptional cases, the court has, in view of the material placed before it, directed that the order of anticipatory bail will remain in operation only for a week or so until after the filing of the FIR in respect of matters covered

by the order. These orders, on the whole, have worked satisfactorily, causing the least inconvenience to the individuals concerned and least interference with the investigational rights of the police. The court has attempted through those orders to strike a balance between the individual's right to personal freedom and the investigational rights of the police. The appellants who were refused anticipatory bail by various courts have long since been released by this Court under Section 438(1) of the Code."

8. Perusal of the record shows that a learned Single Judge by Order dated 4th October 2024 has stayed Clause (ii) of the Order dated 24th September 2024 passed by the learned Additional Sessions Judge, Pune. The relevant discussion is in Paragraph Nos.7 to 11 of the said Order dated 4th October 2024. The said Paragraph Nos.7 to 11 are reproduced herein below for ready reference :-

"7. At this stage, the learned counsel for the applicants, on instructions, makes a statement that the applicants shall produce the machinery specifically referred to in the statement of the first informant, leading to registration of the FIR i.e. BOD Incubator and the other two machines.

8. If that be so, it would be in the interest of justice that clause (ii) of the said order dated 24.09.2024 passed by the Sessions Court is stayed and the applicants are directed to abide by the statement made before this Court.

9. Accordingly, clause (ii) of the order dated 24.09.2024 passed by the Sessions Court is stayed until further orders. Instead, it is directed that, till the next date, in the event the applicants are arrested in connection with the aforementioned FIR, they shall be released on bail on furnishing P.R. Bond of Rs.25,000/- each and one or two sureties each in the like amount.

10. As per the statement made before this Court today, the applicants shall produce the aforementioned machines referred to in the FIR before the investigating officer tomorrow i.e. 05.10.2024 by 12 noon. The investigating officer shall execute an appropriate panchanama in that regard. It is made clear that the stay granted to clause (ii) of the order dated 24.09.2024 passed by the Sessions Court is subject to the applicants abiding by the aforementioned direction of producing the machines referred to in the FIR before the investigating officer, as directed hereinabove.

11. The panchanama that would be executed by the investigating officer, as indicated above, shall be placed before this Court through the learned APP on the next date of listing.”

9. Ms. Warunjikar, learned Counsel for the Applicants, submits that the Applicants have complied with the conditions imposed in the said Order dated 4th October 2024 and produced the machinery and accordingly, *Panchanama* has been executed. On the other hand, Mr. Anand Mohan, learned Counsel for the First Informant, submits that the data which is stored in the computer is also muddemal property and therefore the same is also required to be produced.

10. Ms. Newton, learned APP, states that the Applicants have not attended the Police Station after 5th October 2024.

11. Ms. Warunjikar, learned Counsel for the Applicants, states that the Applicants will cooperate with the investigation.

12. Accordingly, the Criminal Application is disposed of in terms of the Order dated 4th October 2024 passed by a learned Single Judge by imposing following additional conditions :-

ORDER

- i. In the event of arrest of the Applicant No.1- Sumedh More and Applicant No.2 - Namrata Deo, in connection with CR No.1205 of 2023 registered with the Hinjawadi Police Station, Pimpri-Chinchwad, Pune, they be released on bail on their furnishing PR Bond in the sum of Rs.1,00,000/- each with one or two solvent sureties each in the like amount.
- ii. The Applicants shall attend the concerned Police Station on 13th November 2025, 14th November 2025 and 15th November 2025 between 11:00 am to 02:00 pm and thereafter as and when called by the Investigating Officer and shall cooperate with the investigation.
- iii. The Applicants shall furnish their cell phone numbers and residential addresses to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- iv. The Applicants shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.

- v. The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
 - vi. The Applicants shall not leave India without prior permission of the Court.
13. The Criminal Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]