

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

ANTICIPATORY BAIL APPLICATION NO.2528 OF 2024

UMESH PRAVIN RATHOD
VERSUS
THE STATE OF MAHARASHTRA

...Applicant
...Respondent

Alok Kumar Srivastava, Advocate for the Applicant.

Mr. Anand S.Shalgaonkar, APP for the State.

CORAM : RAJESH S. PATIL, J.

DATED : 6 MARCH 2025

P.C.:

1. The present Application is filed by the applicant under Section 482 of the BNSS 2023 for granting anticipatory bail in connection with Crime No.872/2024, registered with Borivali Railway Police Station for the offences punishable under section 3(5) and 108 of BNS 2023.
2. It is the case of the prosecution that, as per the complaint filed with the F.I.R. on 2nd July 2024, the brother of the Informant jumped in front of a local train between Goregaon Railway Station and Ram Mandir Railway Station, thereby committing suicide. A suicide note was found in the pocket of the deceased, in which he mentioned the harassment caused by the present Applicant and his friend-Prakash Laxman Baraskar @ Guddu.

3. Based on the complaint, an F.I.R. was registered with the Borivali Railway Police Station. Both accused filed an Anticipatory Bail Application, which was rejected by the Sessions Court by an order dated 22 August 2024. The accused, "Guddu," has not preferred an Anticipatory Bail Application before this Court. The present application has been filed only by the present Applicant, Umesh Rathod.

4. It is the case of the Applicant that he has attended the office of the Railway Police Station multiple times and has cooperated. Therefore, there is no need for the Applicant to be taken into custody. A copy of the compilation of documents was submitted to the Court. This compilation includes the Say of the Investigating Officer, dated 26th September 2024, addressed to the Public Prosecutor. He submits that, as seen from the said Say, under issue No. 2, on 24 June 2024, the deceased did not inform his own sister about who was allegedly going to kill him. Furthermore, after 24 June 2024, the alleged suicide was committed on 2 July 2024.

6. The learned Advocate for the Applicant submits that from 24 June 2024 till 2 July 2024, the deceased had ample opportunity to approach the police station and file a complaint. However, no such complaint was ever filed by the deceased against the present Applicant. Furthermore, the Applicant had submitted an RTI query to a BMC-run hospital, seeking information on whether the deceased had visited the

hospital for any kind of treatment between 24 June 2024 and 2 July 2024. The response to the RTI query confirmed that there was no record of the deceased receiving any treatment during this period.

7. According to Mr. Srivastava, in such circumstances, no blame can be attributed to the present Applicant. Moreover, the Applicant has cooperated with the police and has attended the office of the Investigating Officer on multiple occasions. An affidavit dated 6 March 2025 has also been tendered in this regard. Therefore, the custody of the present Applicant is not required.

8. The learned APP submits that, as per his instructions, the present Applicant has not cooperated with the police, which is evident from the documents referred to and handed over by the Applicant today. Pages 35 and 36 of these documents indicate that both accused were not cooperating with the investigation. Their mobile phones were switched off, and their house was locked when the police visited their residence. He further submits that the suicide note clearly mentions the names of both accused. Since the present Applicant has not cooperated with the investigation, his custody would be necessary for further inquiry.

9. I have heard the learned Advocate for both the sides and have gone through the F.I.R. and the documents on record so also the documents tendered by the advocate for the applicant today. While

submissions were made before this Court, from the documents tendered by the Applicant today. at page 35, in issue No.1 it has been specifically stated that “both the accused mentioned above are not giving useful information about cause of death of the deceased and are not cooperating with him in the investigation”. In issue No.2 it has been mentioned that the sister of the deceased in her statement has mentioned that on 24 June 2024 the deceased had mentioned to her that he has threat for his life. However, he will not disclose the names to her. He could have name those persons to the husband of the sister. The words used are “Tera admi Rahta to mai uske bolta tha”.

10 Further at page No.36 as regards the issue No.5 it has been mentioned that on *“On 06/07/2024 the accused in the said crime was issued notices Under section 35 (3) with instructions given to appear at the police station from time to time in connection with the crime. But both the said accused are not present when the investigating officer is called to the police station and are not cooperating in the investigation.”*

“When the accused was to be questioned at his residential address on 08/08/2024 and on 09/08/2024, their house were locked and they could not be found. Also, when calling the mobile number used by the accused named Umesh Rathod, it is seen that he switched off his phone. Based on this, it is clear that both the accused are not cooperating in the investigation of the crime on purpose. It appears that the notice given

under Section 35(3) is in violation.”

11. Therefore, it is evident that the accused persons, including the present Applicant, are not cooperating with the police. This, coupled with the fact that the suicide note specifically mentions the name of the present Applicant along with his mobile number physical present of the Applicant for interrogation is necessary for completion of interrogation. Moreover, there is possibility of Applicant pressuring and threatening witnesses and tampering with evidence. Therefore, according to me, no case is made out for grant Anticipatory Bail Application.

12. Hence, **the Anticipatory Bail Application stands rejected.**

13. It is also surprising for me, how the communication between the APP and the Investigating Officer was available to the advocate appearing for the Applicant under R.T.I. the same being a privileged communication between the Advocate and client. I direct the Public Prosecutor to hold enquiry in this aspect and file his report to this Court. This dispose of matter to come up under the caption of “**Compliance**” after four weeks.

(RAJESH S. PATIL, J.)