

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

ANTICIPATORY BAIL APPLICATION NO. 35 OF 2025

Rohit Tangappa Joseph @ Satish Kalia .Applicant

vs.

The State of Maharashtra .Respondent

Mr. Rajendra Rathod a/w. Mr. Sohail Ahmed, Mr. Mujtaba Shaikh,
Mr. Umar Dalvi & Mr. Sameer Merchant, Advocate, for the Applicant
Mr. B. B. Kulkarni, APP, for the Respondent – State
Mr. Lembhe, API, AEC, DCB, CID, Mumbai present

CORAM : MILIND N. JADHAV, J.

DATE : 08.01.2025

P. C.

1. Heard Mr. Rathod, learned Advocate, for the Applicant and Mr. Kulkarni, learned APP for the Respondent – State.

2. By this Application, the Applicant apprehends arrest in connection with C. R. No. 1607 of 2024 registered with the Bandra Police Station, Mumbai and subsequently, transferred to DCB, CID, Anti Extortion Cell for the alleged offences punishable under Sections 308(2), 308(4), 329, 61 & 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. Presently, the Applicant is under going sentence of imprisonment for life in Central Prison, Amravati. FIR is lodged on 30.10.2024 and the date of the incident i. e. alleged in the FIR is stated to be between

01.07.2023 and 29.10.2024. At the outset, there is no clarity on the date of the alleged offences as committed and stated in the FIR. The allegation of the Complainant in the FIR is that during the aforesaid period, he visited several places/locality in Khar, Bandra and threatened the Complainant. The same can be seen from the statement of the Complainant which is appended at page Nos. 32 to 37 of the Application. However, there was no occasion for Applicant to visit the alleged places as alleged and stated in the FIR since he was admittedly lodged in jail at the then time. The Applicant filed Anticipatory Bail Application, being ABA No. 2385 of 2024 before the learned Sessions Court in this crime. That Application stands rejected primarily on the ground of serious antecedents of the Applicant and the allegations made in the FIR. However, it is seen that when that Application was decided, there is no reference made in that Application of the supplementary statement dated 06.11.2024 which is appended at page No. 126 of the Application. Though the earlier Anticipatory Bail Application was decided by the learned Sessions Court on 31.12.2024 the said supplementary statement dated 06.11.2024 was not produced before the Court. The fact that it is produced now is only to improve and fill up the lacunae in the complaint which is lodged on 30.10.2024 in order to show that the Applicant was present at the said incident

spot in Khar, Bandra, Mumbai, to threaten the Complainant during the period when he was granted parole. The Applicant was granted parole for a period of 28 days. Supplementary statement appended at page No. 126 when seen and argued by Mr. Kulkarni, learned APP for the Respondent – State would show that according to the Complainant himself as stated therein, he states that he would not be in a position to state the exact date of the incident on which date he spotted the Applicant having visited the incident spot in Khar, Bandra, Mumbai. He goes on to state that some time in October, 2023 i. e. in the second week of October, 2023 which is before commencement of the Navaratri Festival, he saw the Applicant along with one of his associate on 4 - 5 days as per his memory. The above statement in the supplementary statement is a clear improvement of the statement of the Complainant in his FIR, but the fact that it was not even placed before the learned Sessions Court clearly militates against the case of the prosecution. There is no doubt that the Applicant is convicted in a serious offence and is under going life imprisonment in the cases wherein he stands convicted. Be that as it may, the case in hand before me, *inter alia*, pertains to a clear threat of extortion as alleged by the Complainant/prosecution which is seen from the FIR lodged on 30.10.2024 and read with supplementary statement dated 06.11.2024.

However, both statements are incongruous. The first statement gives away the case of the Complainant and hence, on realizing this, he changes the same to indict the Applicant during his parole period. Apart from dates, no details are given and whatever is stated is vague and insufficient *prima facie*.

4. In view of the above and considering the nature of allegations, the applicant is granted pre-arrest bail on the following terms and conditions :

O R D E R

- (i) In the event of the arrest of the Applicant in the present crime, he be enlarged on bail on furnishing P. R. Bond in the sum of Rs. 50,000/- with one or two solvent sureties in the like amount ;
- (ii) If that happens, the Applicant shall attend the concerned Police Station on the first Saturday of every month between 10.00 a. m. and 12.00 noon up to the date of filing of the Charge-sheet and thereafter as and when called for by the Investigating Officer;
- (iii) The Applicant shall not tamper or attempt to influence the complainant, witnesses or any person concerned with the case;
- (iv) The Applicant shall inform his place of residence and mobile contact number after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the

matter and to the Investigating Officer of the concerned Police Station;

(v) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

5. The Application is allowed in the aforesaid terms and is accordingly disposed of.

6. It is made clear that the observations made herein are *prima facie* and are confined to this application and the learned Judge to decide the case on its own merits, uninfluenced by the observations made herein.

7. All concerned to act on the authenticated copy of this order.

(MILIND N. JADHAV, J.)