



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.120/2025

KIRAN SUKHADEV KOLAPE AND ANR ...APPLICANTS
VS
STATE OF MAHARASHTRA ...RESPONDENT

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Adv. Piyush Toshnival for the Applicants.
Adv. Rutuja Ambekar, APP for the State.
Adv. Chandni Chawla, Appointed Through Legal Aid.
PC D. S. Chedkar, Shirur Police Station.

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CORAM : RAJESH S. PATIL, J.
DATED : MARCH 19, 2025

P.C.:

1. This application is filed by applicants under Section 482 of Bhartiya Nyaya Suraksha Sanhita (BNSS) in connection with C.R. No. 0991/2024 for the offences punishable under section 115(2), 125, 189(2), 191(2), 351(2)(3), 352 of Bharatiya Nyaya Sanhita (in short BNS) registered at Shirur police station.

2. In the complaint which is part of the FIR there are specific allegations made against the present applicants, where the role of the present applicants has been mentioned as the persons who used sickle to hit the first informant on her head, face and right hand. Based on which, FIR has been lodged.

3. The learned counsel for the applicant submits that before

the present FIR could have been lodged, the present applicant has already lodged an FIR against the first informant. It is submitted that four of the accused have been already released on pre-arrest bail. There is grievous injury to the first informant. There is civil dispute pending between the parties, pursuant to which the alleged incident took place. The applicants are ready to co-operate with the investigating officer. Therefore, the custody of the present applicants is not at all necessary.

4. The learned APP handed over the medical certificate, which shows that the injuries is of grievous nature. So also the photographs of the first informant has been shown to me where injuries seen on the head, face and right hand to the first informant, pursuant to which, there was a plaster to the right hand. The first informant is suffering from problem of giddiness and vomiting. The certificate of doctor is enough to show that the injuries are of grievous nature. If the applicants are released on pre-arrest bail they will temper with the prosecution evidence and pressurize the witnesses and there is likelihood that they will commit further offences against the first informant and her family.

5. I have heard both the sides and have gone through the FIR and the medical certificate, so also, the photographs tendered by the APP. In the medical certificate of Sassoon General Hospital, Pune, the injuries shown as of grievous in nature. There is a fracture to the middle finger of the right hand and the plaster has been put over it. It also

there is an injury on the face and on the head, which can be seen in the photographs which have been tendered by the APP.

6. In the FIR, it has been alleged that the accused persons have used iron bar, sickle and stone to hit the first informant and her husband. There is a civil suit pending between the parties. However, the applicants with the other accused persons have no reasons of physical assault the first informant and her husband. The first informant is a lady and the accused persons used sickle to hit it on her head. There are injuries on the head, face and right hand of the first informant.

7. Taking into consideration the over all contents of the FIR, medical certificate and the photographs shown to me, the physical presence of the applicants for interrogation is necessary for completion of investigation. Moreover, there is a possibility that the applicants pressurizing and threatening the witnesses and likely to tamper with evidence, if he released on pre-arrest bail.

8. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*¹ in paragraph 12 has held as under :-

“12..... 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

1 2022 SCC Online SC 1529

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)

9. 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 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)

10. Taking into consideration the FIR, the documents on record and considering the law laid down by the Supreme Court in above judgments, according to me, no case is made out to grant protection to

² AIR OnLine 1997 SC 797

the present applicants. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)