

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. NO. 282 OF 2025

Labhansh Uchhariya	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr. Nizamuddin B. Khan, Advocate for the Applicant.

Mr. Anand A. Palkar, APP for the State.

Mr. Kripashankar Pandey a/w. Ms. Neeta Solanki & Mr. Shailesh Mishra i/b. Unison Legal, Advocate for Intervenor/Complainant.

CORAM : RAJESH S. PATIL, J.

DATED : 17 FEBRUARY 2025

P.C.:

1. The present Application is filed by the Applicants under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for anticipatory bail in connection with C.R. No. 0337 of 2025, dated 13 January 2025, registered with Sahar Police Station, District Brihanmumbai, under Sections 316 (2) and 318 (4) of the Bhartiya Nyaya Sanhita, 2023.

2. Mr. Khan on 12 February 2025 submitted that the Applicant sincerely intends to clear the entire due amount but he requires some time to arrange the funds. Hence, the matter was adjourned. The Applicant's agent has not paid the amount due and payable, as a result of which the Applicant is unable to clear the entire dues of the Informant. Mr. Khan also submits that this is purely a civil dispute and this Court should consider the law laid down by the Supreme Court in judgment of *M.N.G. Bharateesh Reddy V/s. Ramesh Ranganathan & Another* reported in *(2022) 16 SCC 210*. He submitted that the offences under Section 316 (2) and 318 (4) of the BNS, 2023, are not made out. Additionally, he refers to paragraph 21 of the agreement, which pertains to indemnity.

3. Further by the order dated 12 February 2025, the Applicant was directed to deposit his passport with the Police Station. Today it is submitted before this Court the passport of the Applicant has been surrendered.

4. Mr. Pandey, the learned Advocate appearing on behalf of the Complainant, informs that in the last five days, the Applicant/Accused has not made a single attempt to contact the Complainant to discuss about an amicable settlement. He further

submits that the correct address of the Applicant has not been provided to the Complainant. The learned APP, on instructions of the Investigating Officer, submits that the address provided by the Applicant is incorrect, as the Applicant was not found at the stated location upon verification. The learned APP submits that hence, the present Anticipatory Bail Application should be rejected, as it is necessary to take the Applicant in custody in order to make a proper inquiry.

5. The issue pertains to the Applicant, who is a proprietor of an event management company, who had taken on rent premises of the Informant Company to organize an event scheduled for 31 December 2024 "New Year Party". In the agreement it was specifically stated in clause 8 that the payment of Rs.1,78,69,600/- was to be paid by the Applicant on or before 31 December 2024. Admittedly, only a sum of Rs. 40,50,000/- was paid by the evening of 31 December 2024, leaving a balance amount of Rs.1,38,14,600/- to be paid. Despite repeated follow-ups for payment, the remaining amount has not been paid. Therefore, the Informant lodged an F.I.R. with the Sahar Police Station. Apprehending arrest, the Applicant filed an Anticipatory Bail

Application with the Sessions Court, which was rejected on 24 January 2025. Hence, the present Anticipatory Bail Application has been filed before this Court.

6. He submits that if reasonable time is granted, his client will clear the entire payment, confer with the manager of the Informant, and resolve the matter amicably.

7. The learned APP submits that in the judgment of ***Rajesh Bajaj V/s. State NCT of Delhi & Ors.*** Reported in ***(1999) 3 SCC 259***. In paragraph No.11 the Supreme Court has held that what has to be seen is the body of the complaint and whether the body of the complaint mentions that there was inducement for the Informant to believe that the payment would be honoured after receiving the goods. And thereafter, payment has not been made. Such averment would prima facie make out a case for investigation by the authorities. The learned APP submits that as far as the judgment of the MNG Bharateesh Reddy (supra) referred by the Applicant is concerned, the facts of the said judgment is totally different it was a judgment which involved “issue of process” and not Anticipatory Bail Application. Therefore, the ratio laid down in the said judgment wherein in the said case a doctor was

employed by a hospital as a consultant neurosurgeon on a monthly guaranteed fee of Rs.50,000/-. Hence, the ratio will not be applicable in the present case. He submitted that taking into consideration the F.I.R. no protection would be granted to the present Applicant.

8. The learned Advocate for the Informant submits that the show was conducted by the present Applicant on 31 December 2024. Though the agreement stipulated that the entire payment was to be made by the night of 31 December 2024, when a crowd of approximately five thousand people had gathered at the hotel, a potential law and order situation arose. Consequently, the Informant had no option but to allow the show to proceed and rely on the promises made by the Applicant.

9. He further submits that around five thousand persons attended the show on 31 December 2024, with the average ticket price being Rs.5000/- per person. Therefore, the minimum revenue collected was approximately of Rs.2,00,00,000/- (Two Crores) . Additionally, in such events, if a person wishes to attend the show at eleventh hour, the ticket prices are generally beyond of Rs.20,000/- per person. If calculated accordingly, the Applicant has

generated substantial revenue but is now refusing to pay the Informant.

10. In these circumstances, he submits that a strict view should be taken, and the present Anticipatory Bail Application deserves to be dismissed.

11. In rejoinder Mr. Pandey, the learned Advocate for the Informant further submitted that the fact that the Applicant is not able to receive money from the agents, was never argued before the Sessions Court.

12. Mr. Khan, the learned Advocate for the Applicant submits that there is no question of making such a submission regarding the agents not being paid, as the the issue of the Applicant making payment to show his bona fide was never before the Sessions Court.

13. I have considered the submissions made by all the parties before this Court. The fact remains that though there was specific agreement between the parties that the Applicant would pay a sum of Rs.1,78,69,600/- on or before 31 December 2024, the said amount has only been partially paid. The amount to be paid by the Applicant was irrespective of whether the Applicant made a profit

from the show or not, since the amount was to be paid before the show began on 31 December 2024. Admittedly, as of 31 December 2024, the Applicant had paid only Rs.40,50,000/-. The show was conducted, and according to the Applicant, though he had sold tickets for the show, he has unable to recover his money from his agents.

14. Mr. Pandey, the learned Advocate appearing on behalf of the Complainant submits that according to Complainant, around five thousand persons had gathered to attend the show on 31 December 2024, and an average of more than Rs.2,00,00,000/- was collected by the present Applicant. He submitted that the Applicant had committed criminal breach of trust.

15. The Supreme Court in the judgment of *Rajesh Bajaj (Supra)*, in paragraph No.11 held that what has to be seen is the body of the complaint and whether the body of the complaint mentions that there was inducement for the Informant to believe that the payment would be honoured after receiving the goods. The paragraph No.11 reads as under :-

“11. The crux of the postulate is the intention of the person who induces the victim of his representation and not the nature of the transaction which would

become decisive in discerning whether there was commission of offence or not. The complainant has stated in the body of the complaint that he was induced to believe that the respondent would honour payment on receipt of invoices, and that the complainant realised later that the intentions of the respondent were not clear. He also mentioned that the respondent after receiving the goods had sold them to others and still he did not pay the money. Such averments would prima facie make out a case for investigation by the authorities.”

16. The law laid down in the *Rajesh Bajaj (Supra)* squarely applies to the present proceedings. According to me, since in the present proceedings there is an agreement between the parties that a payment of Rs.1,78,69,600/- would be made by 31 December 2024, and there is no denial to this fact. This Payment was to be made irrespective of whether the show, “New Year Party”, makes a profit or not. In the present case, the show was conducted and, according to the parties, it was houseful.

17. Hence, taking into consideration the facts of the present case as narrated in the F.I.R. and the fact that the Applicant is not cooperated with the police by not furnishing his present address and taking into consideration the ratio laid down in the judgment of *Rajesh Bajaj (Supra)*, no case is made out in the present

Application.

18. Hence, **the Anticipatory Bail Application is rejected.**

19. At this stage, Mr. Khan, the learned Advocate for the Applicant, requests the granting of protection for one week to allow the Applicant to approach the Supreme Court.

20. Mr. Pandey, the learned Advocate for the Complainant opposes this request made by the the learned Advocate for the Applicant on the ground that there was no interim granted by this Court neither by the Sessions Court. The Applicant has not cooperated since the Applicant is not even furnishing his correct address to the Investigating officer.

21. In these circumstances, the request made by the learned Advocate for the Applicant is hereby rejected.

(RAJESH S. PATIL, J.)