

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 363 OF 2025

Kiran Biradichand Kankriya & Anr. Applicants

VERSUS

State of Maharashtra Respondent

Mr. Nitin Gaware Patil a/w. Mr.Divyesh Jain, Mr. Shantanu Kolhe
i/b. Mr.Shubham Wadne for the Applicants.

Ms. Pallavi N. Dabholkar, A.P.P. for the State.

CORAM : RAJESH S. PATIL, J.

DATE : 10th FEBRUARY, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with FIR No. 0020 registered with Sarkar Wada Police Station, Nashik City for the offence punishable under Sections 105, 353(2), 351(3), 352, 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that the present complaint has been lodged by the wife of the deceased. The accused persons are the neighbours of the informant while the informant along with her husband was residing in one building. The applicant person was requested to allow them to use the water as no water was coming from the tap in their home. It seems that the accused person has installed iron gate in the staircase and put a lock and closed the way proceeding to the roof of the building. Since there was no water to the tap, the informant and her husband requested the applicant to open the iron gate so that they can have some water for their use. However, the applicants abused them and pushed the husband of the informant and also gave him a threat that he will kill him. The applicant no.1 caught the neck of the deceased and gave a strong blow and pushed the husband of the informant from staircase. Thereafter, he had chest pain and he was unable to sit. After that the deceased was taken to the hospital where he was declared as dead. An FIR was lodged accordingly.

3. Mr.Patil, learned counsel appearing for the applicants submits that there was no intention of killing the person and the applicants had no knowledge about the medical history of the deceased. He submits that there are no antecedents or criminal record of the present applicants and they are ready to co-operate with the police. Hence, he submits that the applicants be protected.

4. Learned A.P.P. appearing for the State submits that the statements are recorded by the police of the landlord of the building and also of a immediate neighbour. As regards the landlord is concerned, the landlord has come forward and said that the present applicants are of nuisance value and their nuisance is such that they don't allow the landlord to have access of the terrace where the common water tank is placed. Being fed up with the conduct of the applicants, the landlord himself shifted to another premises.

5. So also the another immediate neighbour Mr. Wagh has submitted that the present applicants have always been a nuisance value and on the unfortunate date, they heard the abuses made by the applicants to the deceased person. In fact, the said statement also records how filthy language was used by the applicants to the deceased person. So also, the applicant no.1 had specifically stated to the deceased person ‘ एक-एक को गोलीसे उडा दुंगा’. The next after that the neighbour heard was the deceased person collapsed and he was taken to the Magnum Hospital at Nashik. The deceased person was declared dead in the said hospital. Therefore he submits that the custody of the present applicant will be necessary.

6. I have heard learned counsel for both the sides and have gone through the contents of the FIR. So also, I have gone through the statements of the neighbour and the landlord of the premises.

7. In the FIR, there are specific allegations made against the

present applicants. Apart from the informant, even the statements are recorded by the police of neighbour and the landlord which was produced by the learned A.P.P. which have noted the conduct of the applicants and the abusive language used by the applicants. So also, the threat given by accused to the deceased person. Taking over-all consideration the FIR and all the documents on record, and considering the view taken up by judgment of Hon'ble Supreme Court in ***Sumitha Pradeep vs. Arun Kumar C.K. & Anr., (2022) 17 SCC 391*** and in particular paragraph 12 which reads 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 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.

8. No case is made out to grant protection to the present applicants. **This anticipatory bail application is rejected.**

[RAJESH S. PATIL, J.]