



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

ANTICIPATORY BAIL APPLICATION NO. 376/2025

ASLAM HASIM KHAN

..APPLICANT

VS

STATE OF MAHARASHTRA

..RESPONDENT

Adv. Parth Sanghrajka a/w. Adv. Siddhesh Samel i/b. Rajeev Sawant
& Associates for applicant.

Ms. Supriya Kak, APP for State.

Mr. Ashish Vernekar for intervener.

WAPI Nisha Chavan, Mumbra Police Station, Thane City.

CORAM : RAJESH S. PATIL, J.

DATE : FEBRUARY 11, 2025.

P.C. :

1. This application is filed for seeking pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with First Information Report (FIR) No. 1987/2024 registered with Mumbra Police Station, Thane City, for the offence punishable under Sections 3(5), 308(2) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that the applicant has used the mobile phone in commission of the offence which is yet to be

recovered. The investigation is on going.

3. The informant has opposed the application of the applicant for grant of pre-arrest bail before the trial Court. She contended that the applicant is a mastermind behind the heinous crimes. He and his son secretly recorded the video of the informant on mobile phone. The applicant coerced the informant into transferring online money in the bank account of his wife. The video recorded by the applicant has not been surrendered to the police. Therefore, the custodial interrogation of the applicant is necessary. Hence, the FIR was lodged with the police.

4. It is the case of the applicant that the applicant telephonically called the informant and asked to meet her in connection with the case where the applicant introduced himself as a social worker. On 25/8/2021, the crime was registered against the son of the applicant at Manpada Police Station. The applicant sought a sum of Rs.1 lakh in order to help the informant. The informant somehow managed to get a cash of Rs.75,000/-. However, though Rs.75,000/- was accepted, the applicant did not help her. After few months, the informant started demanding her money back. However, her monies were not returned. On 2/2/2022, the informant came to Mumbai

from Uttar Pradesh in badly injured condition. She went to the house of the applicant where his wife applied ointment on her body while the son of the applicant recorded her video. The applicant, thereafter, started extorting money from the informant by threatening her that he will otherwise publish the video. The applicant in total extorted a sum of Rs.6,29,000/- in cash and a sum of Rs.1,10,600/- through online transfer. As the monies were not returned, so also, the video recorded was not returned, the FIR was lodged by the informant.

5. It is submitted on behalf of the applicant that the FIR has been lodged on a false statement. The applicant had filed a complaint on 3/10/2024 to the Deputy Commissioner of the Police, Thane against the informant and as a counterblast, the present FIR has been filed by the informant. It is submitted that there is no such video recorded by the applicant or his son. Hence, there is no question of returning the video. It is submitted that there are several transactions between the applicant and the informant, and even it is presumed that certain monies were taken by the applicant from the informant, two bank entries shown that in fact the present applicant has been paying monies to the informant. The learned counsel for the applicant further submits that the present informant had filed the complaint with the police for which the police recorded N.C. on 2/10/2024. The

FIR in the present proceeding was registered on 6/10/2024 i.e. four days after the N.C. was recorded. The said N.C. does not record any kind of incident as narrated in the FIR dated 6/10/2024. Hence, it is submitted that the protection is necessary to the present applicant.

6. The learned counsel appearing on behalf of respondent no.2 submits that the applicant is a person who has married four times. A sum of Rs.8 lakhs has been received by him, and he is not ready to return the said money. The informant is a rape survival. The video is recorded by the applicant and his son. The said video is purposely not given to the police by the applicant. The learned counsel for the respondent no.2 further submitted that on page 37 of the Intervention Application, the copy of the N.C. dated 21/10/2024 has been enclosed. During the pendency of the anticipatory bail application in the present proceedings before the Sessions Court, the N.C. dated 21/10/2024 has been filed by the informant whereby alleging that the present applicant and his son had threatened her on 21/10/2024 seeking withdrawal of the cases filed by her. Hence, the present application needs to be rejected.

7. The learned APP strongly opposed the present application. She submitted that the matter is of serious nature. There are criminal

antecedents reported against the applicant. Crime No.1753/2012 for the offences punishable under Section 376, 328, 452, 323 and 506 of the Indian Penal Code (Sessions Case No.501/2013) was registered against the applicant at Mumbra Police Station. Crime No.40/2020 for the offences punishable under Sections 354D, 345D, 509 and 506 of the Indian Penal Code (R.C.C. No.1542/2020) was also registered against him at Thanenagar Police Station. Crime No.1163/2013 for the offences punishable under Sections 342, 363, 365, 506 read with Section 34 of the Indian Penal Code was registered against him at Mumbra Police Station. When the informant had been to Kausa to meet her relatives, the applicant and his son obstructed and threatened her. Therefore, non-cognizable case No.3682/2024 for the offence punishable under Sections 151 and 352 of the Bharatiya Nyaya Sanhita, 2023 is registered against him. Therefore, it is prayed for rejection of the application.

8. I have gone through the contents of the FIR and the documents on record. There is an allegation that the applicant has recorded a video of the informant, and he possesses video in his mobile phone, and he has been threatening the informant that he will share it on social media. As per the bank entries, it appears that there were transactions between the parties. So also, apart from the bank

transfers, there are loan given. In my view, the applicant is not cooperating with the police by not handing over the said video to the police.

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

“..... 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.”

(Emphasis supplied)

10. In view of the same, there is no merit in the present anticipatory bail application. **The same is rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)

¹ (2022) 17 SCC 391