

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 401 OF 2025

VIRAJ SACHIN JADHAV

..... APPLICANT

VERSUS

STATE OF MAHARASHTRA & ANR.

..... RESPONDENTS

Ms. Akshata Borade a/w. Mr.Sugandh Zonde for the Applicant.

Mr. Ajay S. Patil, A.P.P. for the State.

Mr. G. N. Gaikwad, P.S.I., Dharavi Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : 25th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No.1059/2024 dated 12th December, 2024 registered with Dharavi Police Station, for the offences punishable under Sections 64, 87, 352, 351(2), 115(2) r/w. Section 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the complaint filed, an FIR has been lodged. The role of the present applicant has been mentioned in the said FIR.

3. On 17th February, 2024, a statement was made before me by the learned counsel appearing for the applicant that the witness girl 'Tania' will attend the office of the Investigating Officer to record her statement on 20th February, 2025. The learned A.P.P. submits that the said girl called 'Tania' did not attend the office of the Investigating Officer.

4. After going through contents of the complaint, FIR and the documents on record, it can be seen that the present applicant first developed friendly relationship with the victim girl and thereafter, he met her on 13th August, 2024 in the locality called as Dharavi and thereafter offered her some snacks. As the victim girl refused, he threatened her and forced her to sit on his motorcycle. He took the motorcycle to the locality called as Govandi. In the said locality, he took the girl to a lodge. After tendering his Aadhar Card, as far as identity proof of the victim girl is concerned, he produced Aadhar card of a girl called as Tania. He, thereafter, committed sexual assault on the victim girl. After few weeks, it was found that the victim girl was pregnant. He forced the victim girl to abort the fetus and after the victim girl had aborted the fetus, he avoided phone calls of the victim girl, pursuant to which an FIR has been lodged. The medical test of

the present applicant is required to be done. Apart from that, the 'thigh bone femur of the fetus' needs to be done for DNA test. So also, the statement of the girl named Tania has to be recorded. So also, the Aadhar card has to be procured, which the present applicant has used of Tania to show as if the girl Tania was with him when he went to the lodge. There is high possibility that the present applicant if granted any protective order by this Court, he will threaten and pressurize the victim girl, her family members and the witnesses.

5. The 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,

1 (2022) 17 SCC 391

cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

6. 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)

7. Considering the view taken by the Supreme Court in above judgments and considering the fact of the present case as narrated in the FIR, the present anticipatory bail application stands rejected.

[RAJESH S. PATIL, J.]

² AIR OnLine 1997 SC 797