

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 453 OF 2025

Shubham Ashok Mishra

...Applicant

Versus

The State Of Maharashtra

...Respondent

Mr. Nikhil Hire, Advocate for the Applicant.

Ms. Rutuja Ambekar, APP for the State.

CORAM : RAJESH S. PATIL, J.

DATED : 26 FEBRUARY 2025

PC.:

1. The Applicant is seeking anticipatory bail in connection with C.R.No.0391 of 2024, registered at Manikpur Police Station, Mira Bhayandar on 4 November 2024 for the offences under Sections 406 and 420 read with Section 34 of the Indian Penal Code, 1860.

2. There are a total of four accused persons. Out of them, Accused No.1 has been arrested, while Accused Nos. 2 and 3 are absconded. The arrested Accused gave his statement to the police on 22 December 2024.

3. The statement of Accused No.1 clearly mentioned the name and the role played by the present Applicant/Accused No.4.

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4. The case of the prosecution has been stated in the complaint, which is annexed to the F.I.R. The role of the present applicant has been specifically stated in the said complaint.

5. Today, the learned Advocate appearing on behalf of the Applicant submits that the Applicant has no role to play in the alleged crime. The Applicant's name does not appear in the F.I.R. and has only been mentioned in the remand report. Furthermore, the amount related to the crime, as mentioned in the F.I.R., has not been deposited into the bank account of the present applicant. Therefore, the present applicant be released on bail.

6. The learned APP submits that at least three witnesses, viz. Rohit Shah, Lata Rathod and Qureshi, have stated the name of the applicant in their statement. Similarly, the F.I.R. mentions the role of the present applicant. Furthermore, in the statement recorded of Accused No.1, he also referred to the role of the present Applicant.

7. A comparison of the witnesses statement, the F.I.R., and the statement of Accused No.1 shows that all the three mention the name of the present Applicant at the time the crime was committed. The police need to conduct a thorough investigation. The F.I.R was registered only on 4 November 2024. Therefore, the investigation is at a initial stage.

8. In order to ascertain the details of the crime committed, the Applicant must cooperate with the investigation. Hence, the custody of the present Applicant would be necessary.

9. 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, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

10. Taking into consideration the facts of the present proceedings, I am of the view that there is no merits in this Anticipatory Bail Application. Hence, the same stands rejected.

(RAJESH S. PATIL, J.)

¹ (2022) 17 SCC 391