



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.572/2025

SANJIV S/O SHANKAR AVHAD AND ORS

...APPLICANTS

VS

STATE OF MAHARASHTRA

...RESPONDENT

...

Adv. Pradyumna D. Sharma a/w Bhavika S. Hodar for the Applicants.

Adv. Pallavi N. Dabholkar, APP for the Respondent State.

Adv. Sayavrat Joshi i/b Shivani Kondekar for the Intervenor.

...

CORAM : RAJESH S. PATIL, J.

DATED : APRIL 7, 2025

P.C.:

1. By way of present application the applicants prayed to release them on bail in the event of their arrest in connection with Crime No. 33/2025 registered at Sarkarwada Police Station for commission of offence punishable under Sections 406, 409, 420 r/w Section 34 of Indian Penal Code, 1860.

2. As per the complaint an FIR has been lodged. The role of the present applicants are specifically mentioned in the FIR.

3. On 12 March 2025 the submissions of the learned counsel for the applicants was recorded. Though, the case of the first informant was that a sum of Rs.2,50,00,000/- was paid to the applicants. However, the applicants disputed the amount and showed their willingness to deposit Rs.1,50,00,000/- in this Court within a period of

three weeks from that day without admitting their guilt and without prejudice to the rights and contentions of the parties. The three weeks period ended on 2 April 2025. Today, i.e. on 7 April 2025, when the matter was called out, the Advocate for the applicants submit that the applicants were not able to deposit sum of Rs.1,50,00,000/- in this Court. They need further time of three weeks to deposit of Rs.90,00,000/- and a demand draft of Rs.60,00,000/- can be deposited today in the Registry of this Court.

4. Mr. Joshi, learned counsel for the first informant has opposed the present application submitting that though the amount involved was Rs.2,50,00,000/-, the applicants with ulterior motive, mentioned the amount as Rs.1,50,00,000/- on the last occasion, and were able to enjoy the protection from this Court on the ground that they are ready to deposit Rs.1,50,00,000/- within a period of three weeks. The three weeks time is over and the applicants today are again seeking further time of three weeks to deposit the amount. He submitted that the contempt proceedings needs to be initiated against the present applicants.

5. I have heard the counsel for both the sides and have gone through the documents on record.

6. Though the counsel for the applicants had undertaken to

deposit Rs.1,50,00,000/- within a period of three weeks when, according to the first informant, the amount involved was Rs.2,50,00,000/-, in my view, the applicants have not complied with their undertaking given to this Court.

7. There was a transaction between the parties for purchase of stone crushing machine and also for an investment in a business. It is case of the first informant that a sum of Rs.2,50,00,000/- were transferred in the account of the applicants. The said amount was withdrawn by the applicants after receiving from the first informant. As per the investigating officer, the applicants had assured to hand over the stone crusher unit meant for mining business to the first informant. But the stone crusher unit has not been handed over to the first informant though promised. This ultimately means that the applicants since inception, intended to cheat the first informant. The physical presence of the present applicants for interrogation is necessary for completion of investigation. Moreover, there is a possibility of the applicants to pressurizing and threatening the witnesses and likely to tamper with evidence.

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

“12..... In many anticipatory bail matters, we have noticed one common argument being canvassed that no

1 2022 SCC Online SC 1529

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)

9. 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)

2 AIR OnLine 1997 SC 797

10. Taking into consideration the contents of FIR, the documents on record and considering the law laid down by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicants. **The anticipatory bail application stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)