



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.587/2025

FAISAL NISAR SHAIKH

...APPLICANT

VS

STATE OF MAHARASHTRA

...RESPONDENT

...

Adv. Meghshyam Kocharekar for the Applicant.

Adv. Anand S. Shalgaonkar, APP for the Respondent State.

Adv. Bhudhbhushan Rajratna for Respondent No. 2.

API N. P. Rupvate, Bhoiwada Police Station.

...

CORAM : RAJESH S. PATIL, J.

DATED : APRIL 4, 2025

P.C.:

1. On 17 March 2025, the following order was passed in this proceeding :

“1. Mr.Kocharekar, learned counsel appearing for the applicant submits that the alleged incident about miscarriage of the first informant due to alleged beating of the present applicant is stated to have been occurred on 29th August, 2024. As per the FIR the said offence has occurred at night 2:00 a.m. which is at page no. 17 of the present proceedings. The FIR has been lodged on 6th February, 2025 at 18:51 hours.

2. He submits that contrary to the same, the notice issued on 19th September, 2024 by the advocate appearing on behalf of the first informant, a copy of the said notice is attached at page nos. 43 to page 46. At page no. 45, the incident of 29th August, 2024 has been narrated and the time stated is afternoon 2:00 p.m. He submitted that even the photographs of the Bar Room of 29th August, 2024 at 13:42 hours, 14:01 hours and 15:26 hours have been enclosed to page nos.40 to 42, which shows that the applicant was present in the Bar Room at Bhiwandi Sessions Court. He submitted that in view of the same, it can be clearly seen that the first informant has made false allegations in FIR. He submits that no doubt, there is matrimonial dispute between the applicant and the first informant. However, the

allegations on the basis of which the FIR has been lodged, the applicant needs to be protected as there is defence of alibi also. He submits that the Sessions Court though agreed with the argument of the applicant as regards alibi but however came to the conclusion that the defence of alibi cannot be considered at the stage of preliminary enquiry. He submitted that if there is defence of alibi, it is a very good ground of pre-arrest bail be granted.

3. The learned A.P.P. submits that they have recorded the say of Dr.Deshmukh (gynecologist) of Civil Hospital, Thane. He submits that the said report states that the first informant mentions about she being pregnant of one and half months. He further stated that though the first informant was directed to do various tests including sonography, the first informant except doing sonography, did not perform any other test. Based on the same, it could not be verified whether the first informant was pregnant or not ?.

4. Mr.Buddhabhushan Rajratna, learned counsel submits that he has been instructed to appear on behalf of the first informant and need some time to file his Vakalatnama and make his submissions.

5. A week's time is granted to the advocate to file his Vakalatnama. Stand over to **24th March, 2025**. Matter to come up under the caption of '**Urgent Circulation**'.

6. In the meantime, no coercive steps be taken against the applicant by the Investigating Officer. However, the investigation can proceed further and if the Investigating Officer wants to file charge-sheet, the same can be done.

7. The applicant is directed to attend the office of the Investigating Officer of the concerned Police Station for recording of statement on 20th March, 2025 between 11:00 a.m. to 1:00 p.m.”

2. The learned APP submits that the applicant is co-operated with the police and attended the office of the investigating officer. Both parties are made efforts to resolve their dispute. However, the same are not materialized. They will again try to make efforts to resolve their dispute.

3. I have gone through the contents of the FIR and the documents on record, more specifically the notice which is annexed at

page nos. 43 to 46, photographs at page nos. 40 to 42, so also, the report of Gynecologist. Considering all these documents, I am of the view that the applicant needs to be protected. Hence, I pass the following order.

ORDER

- (a) **The anticipatory bail application is allowed.**
- (b) In the event of arrest in connection with C.R.No.93/2025 registered with Bhoiwada Police Station, the applicant shall be released on bail, on furnishing P.R. bond to the extent of Rs.30,000/- with one or two sureties of the like amount.
- (c) The applicant shall attend and meet the investigating officer of the concerned police station on 9 April 2025 and 10 April 2025 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for.
- (d) The applicant should not contact the first informant or her family members in any form, except for the purpose of amicably resolving the matrimonial dispute between them.
- (e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and shall not tamper with evidence.
- (f) The applicant shall furnish details of his

residential address, contact number and email address to the Investigating Officer.

4. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is also clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

5. **The anticipatory bail application is disposed off as allowed.**

(RAJESH S. PATIL, J.)