



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 621/2025

RASIKA DHANANJYA @ MANOJ DESAI ..APPLICANT
VS.
STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

WITH

ANTICIPATORY BAIL APPLICATION NO. 658/2025

DHANANJAY @ MANOJ JAYRAM DESAI ..APPLICANT
VS.
STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Senior Counsel Sudeep Pasbola a/w. Adv. Subhash Hulyalkar, Adv. Jatin Chawda, Adv. Aaisha Patel, Adv. Shivani Dixit for applicant in ABA/621/2025.

Dr. Uday Warunjikar a/w. Adv. Subhash Hulyalkar, Adv. Shivani Dixit, Adv. Jatin Chavdha for applicant in ABA/658/2025.

Ms. Rutuja A. Ambekar, APP for State.

Adv. Yashwant Thorat for respondent no.2 in both ABAs.

CORAM : RAJESH S. PATIL, J.

RESERVED ON : APRIL 21, 2025.

PRONOUNCED ON : MAY 5, 2025.

ORDER :

1. These applications are filed under Section 438 of the Criminal Procedure Code, 1973 (Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023) for seeking pre-arrest bail in connection with the First Information Report (FIR) No. 42/2025 registered with the Paud Police Station, Pune Rural, for the offence punishable under Sections 341, 385, 406, 420, 447, 448, 504, 506 read with 34 of the Indian Penal Code.

2. Based on the complaint filed, an FIR has been lodged. The role of the present applicants has been mentioned specifically in the FIR.

3. It has been claimed on behalf of the applicants that a civil suit was filed before the Civil Judge Junior Division in the year 2015 by the relatives of the informant against the present applicant (Dhananjay Desai) for declaration that the plaintiffs are the sole owners of the suit property and the defendants (present applicant – Dhananjay Desai) does not have any kind of right. No reliefs have been granted in the civil suit, and on 3/2/2025, the present FIR has been filed for the offence punishable under Sections 341, 385, 406, 420, 447, 448, 504, 506 read with 34 of the Indian Penal Code.

Immediately, thereafter, the civil suit was withdrawn by the relatives of the informant. The father of the informant had permitted the applicant (Dhananjay Desai) to stay in the suit premises. After the father of the informant died in the year 2012, the relatives of the informant have with ulterior motive filed suit for declaration against the present applicant (Dhananjay Desai). There is no need to take custody of the present applicants, as both of them are ready to cooperate with the IO. The allegations made in the FIR are all sham and bogus. The colour of criminality has been tried to be given to a civil dispute.

4. The learned APP has opposed the present anticipatory bail application. She submits that there are at least 18 criminal antecedents pending against the present applicant (Dhananjay Desai). The father of the informant was conducting 'Satsang' on weekends in the subject premises, which the applicants used to attend, and only on ground of sympathy, the applicant/accused Dhananjay Desai was permitted to stay in the subject property. However, later on, they realized that the applicant Dhananjay Desai had criminal background and is a known gangster which father of the informant realized from a newspaper article published, which mentioned about the applicant Dhananjay Desai having kidnapped a

businessman called as Kurhade and had brought him in the suit premises. It was further stated that the applicant demanded ransom from the said Kurhade. After being aware about the said news being published because of the mental pressure, ultimately, father of the informant died on 3/4/2012. Since the brother of the informant was busy into the businesses, there was slight delay on the part of them to lodge FIR. The applicant (Dhananjay Desai) took advantage of the situation and was not ready to vacate the suit premises. He ultimately sought a sum of Rs.2 crores to vacate the suit premises. Therefore, the suit was filed. The informant also to file a criminal case. Accordingly, the FIR has been lodged. The custody of the present applicant (Dhananjay Desai) who is known gangster would be necessary in order to investigate the crime. There are eighteen criminal antecedents reported against the present applicant (Dhananjay Desai) including the offence punishable under Section 302 of the Indian Penal Code.

5. Heard the learned counsel for the applicants and the learned APP for the State. I have considered the documents on record.

6. It has been alleged that the applicant Dhananjay Desai, is a

founder and president of an association known as "Hindu Rashtra Sena". The father of informant used to conduct satsang in the suit premises as he was the owner of the suit premises. This satsang used to be on weekends. The applicant started participating in the satsang after which he developed good relationship with the father of the informant. The father of the informant on humanitarian grounds, allowed the applicant to stay in the suit premises, not knowing the criminal background of the applicant Dhananjay Desai.

7. The father of the informant realized the criminal background of the applicant when in a news article it was published that the applicant Dhananjay Desai had kidnapped a businessman named as Kurhade and had taken him in the suit premises demanding ransom from the said businessman Kurhade. The father of the informant realized what mistake he had done by allowing a gangster the applicant Dhananjay Desai, to reside in the suit premises. Due to mental pressure, the father of the informant died.

8. After the death of the father of the informant, the applicant Dhananjay Desai took advantage and started threatening the informant and his family members. He was not ready to vacate the suit premises. He had already forged documents and had procured

light bill, ration card, passport, Aadhar card of his and his family members based on the address of the suit premises. The relatives of the informant has filed the suit for a declaration and permanent injunction for land admeasuring 1 hector before the Civil Judge Junior Division, Pune. The applicant Dhananjay Desai took advantage of the time taken for deciding the suit and further started threatening the informant and his family members. In the meanwhile, the informant lodged the present FIR. The applicant Dhananjay Desai started threatening the informant that to vacate the suit premises he requires Rs.2 crores.

9. The learned APP pointed out that there **are 18 criminal antecedents** which are pending against the applicant Dhananjay Desai. The offences reported in such crimes are of serious in nature like Sections 302, 306, 143, 144, 148 of the Indian Penal Code and Section 3 (25) of the Arms Act. The said crimes are pending in various police stations all over Maharashtra which include Faraskhan Police Station, Vishrambag Police Station, Chaturshrungi Police Station, Loni Kalbhor Police Station, Hadapsar Police Station and Paud Police Station.

10. The applicants have not shown any documents to show that

they are in legal possession of the suit premises. Neither any kind of the sale agreement or conveyance deed or tenancy agreement. In my view, just because the relative of the informant had filed a civil suit for a declaration and injunction against the present applicant Dhananjay Desai would not in real sense will have effect on the FIR lodged by the informant.

11. 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 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)

12. 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

1 2022 SCC Online SC 1529

2 AIR OnLine 1997 SC 797

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)

13. Considering the law as laid down by the Supreme Court in the above noted judgments and the fact that the present applicant Dhananjay Desai was not able to produce any document to show his legal title to be in the suit premises, 18 criminal antecedents reported against the present applicant Dhananjay Desai, who claims that he is a president of "Hindu Rashtra Sena". In the anticipatory bail application of co-accused who is wife of applicant-Dhananjay Desai, the grounds pleading are identical to that of applicant-Dhananjay Desai. Except she being a lady, there is no other ground taken up by her. In earlier paragraphs, I have already discussed the law laid down by the Supreme Court. In my view, these pre-arrest bail applications

deserve to be rejected.

14. Anticipatory Bail Application No. 621/2025 and Anticipatory Bail Application No. 658/2025 are hereby rejected and disposed of accordingly.

(RAJESH S. PATIL, J.)

15. At this stage, Dr. Uday Warunjikar, the learned counsel appearing for the applicant in Anticipatory Bail Application No.658/2025 seeks extension of interim relief which was in the form of oral direction to the police not to arrest the applicant.

16. The learned APP opposes the request made by the learned counsel for the applicant.

17. The request made by Dr. Warunjikar stands rejected.

(RAJESH S. PATIL, J.)