



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 701/2025

SUNIL PARSHARAM AHER ..APPLICANT
VS
STATE OF MAHARASHTRA ..RESPONDENT

Senior Advocate Ashok Mundargi a/w. Adv. Shubhankar Avhad, Adv. Rutuj Warrick, Adv. Aditya Talpade, Adv. Pratik Karande for applicant.
Mr. Nitin B. Patil, APP for State.
PI Sarthak Prakash Nehete, Deola Police Station, Nashik Rural.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 2, 2025.

ORDER :

1. This application is filed under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for seeking pre-arrest bail in connection with the First Information Report (FIR) No.I-35/20250 registered with the Deola Police Station, Nashik, for the offence punishable under Sections 143(1), 143(2), 143(3) of the Bhartiya Nyaya Sanhita, 2023 read with under Sections 3, 4, 5, 6 of the Immoral Traffic (Prevention) Act.

2. On the basis of the complaint filed, an FIR has been lodged. The role of the present applicant has been specifically stated in the

FIR. The accused no.1 is in the custody of the police. The present applicant is accused no.2 who is admittedly owner of the Lodge.

3. The learned Senior Advocate appearing for the applicant submits that the applicant had entered into a “Conducting Agreement” with one Mr. Deepak Ahire on 23/8/2021 for a period of three years. He submitted that the said Mr. Deepak Ahire was conducted what kind of business in the said Lodge the present applicant is not aware of. He submitted the present applicant owns a large amount of agricultural lands and is also a director of a Cooperative Credit Society. He also owns a restaurant and bar near Nashik. His wife is a Zilla Parishad Member and also a Senate Member of the Pune University. The 7/12 extract of the applicant owning large pieces of lands is enclosed from 94 to 109. The manager of the Lodge has been arrested and he has been arraigned as accused no.1. The applicant who is owning huge properties, there is no need to conduct this kind of disrespectful business. He submits that though there are three criminal antecedents reported against the present applicant, he has been acquitted in one of the crimes, another one was compounded and in the third FIR the present applicant has been granted bail. The applicant is ready to cooperate with the IO. The custody of the present applicant is not at all necessary.

4. The learned APP appearing for the State submits that the hotel premises has been sealed on 1/4/2025 by following the provisions as enumerated in Section 18 of the Immoral Traffic (Prevention) Act. He submits that the statements of the victim girls have been recorded. They have specifically mentioned the name of the present applicant. The statement of the manager of the hotel has also been recorded. The said manager also specifically refers the name of the present applicant as the person who is conducting the business. He further submits that admittedly there was conducting agreement executed between the applicant and one Mr. Deepak Ahire. Therefore, in real sense the business is conducted by Mr. Deepak Ahire on behalf of the present applicant. He submits that apart from the applicant owning various properties, he is also the owner of the restaurant and bar. There are three criminal antecedents reported against the applicant. Therefore, in order to complete the investigation, the custody of the present applicant would be necessary.

5. I have heard the learned Senior Advocate appearing for the applicant and the learned APP for the State. I have also gone through the FIR and the documents on record.

6. The learned APP has submitted on instructions of the IO that by following procedure in view of the Section 18 of the Immoral Traffic (Prevention) Act, the premises of the Lodge has been sealed on 1/4/2025. The panchanama and the photographs to that effect were shown to me by the learned APP from his file.

7. There are three criminal antecedents reported as far as the present applicant is concerned. As per the present crime is concerned, the statement of the victim girls who are Bangladeshi national have been recorded. They have specifically named the present applicant as the owner of the Lodge where the illegal business (prostitution) was going on. Apart from them, the statement of the manager was recorded. That statement also stated the name of the present applicant as the owner of the said Lodge.

8. The document what has been entered into between the present applicant and Mr. Deepak Ahire is a “Conducting Agreement”. The term “Conducting Agreement” has not been defined under any Act. However, the reference of conducting business is found in the definition of licensee in Section 7(5) of the Maharashtra Rent Control Act, which reads – Licensee does not include a person conducting a running business belonging to the licensor. Hence, in my view, the

business which was conducted in the said Lodge was conducted by Mr. Deepak Ahire for the applicant. In short what it means is Mr. Deepak Ahire is conducting business on behalf of the owner, in this case the applicant. The physical presence of the applicant for interrogation is necessary for completion of the investigation. Moreover, the possibility of pressurizing and threatening witnesses and tamper with the evidence cannot be ruled out.

9. 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)

10. A similar view has been taken by the Supreme Court in the

¹ (2022) 17 SCC 391

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)

11. Considering the overall facts as narrated in the FIR, the statements of the victim girls (Bangaldeshi national), the statement of the manager and the law laid down by the Supreme Court as noted above, no case is made out to grant pre-arrest bail to the present applicant. **The anticipatory bail application of the applicant stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)

2 AIR OnLine 1997 SC 797