

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 712 OF 2025

Farida Iqbal Sayed And Ors	...Applicants
Versus	
The State Of Maharashtra	...Respondent

Mr. Aniket Vegal a/w. Mr. Munsif Khan a/w. Ms. Savvy Kolhekar a/w.
Mr. Vikas Dongre, Advocate for the applicants.

Ms. Pallavi Dabholkar, APP for the State.

Mr. Faiyaz Khan i/b. Raeesuddin Khan, Advocate for respondent No.2.

Ms. Jyoti Hibare, PI Santacruz Police Station present.

CORAM : RAJESH S. PATIL, J.

DATED : 30 APRIL 2025

PC.:

1. This applicants prayed for anticipatory bail in connection with crime no.0159 of 2025 registered in Santacruz Police Station for the offence punishable under section 119 (2), 126 (2), 189(2), 190, 351(2), 351(3) and 352 of the Bhartiya Nyaya Sanhita, 2023. The applicants have apprehension of their arrest and therefore the filed this application.

2. The complaint has been lodged, based on which an FIR has been registered. The role of the present applicant has been specifically mentioned in the said FIR.

3. The present applicants are related to one Shahid Sayed, who is the husband of the present first informant. There is a daughter born out of the wedlock between Shahid Sayed and the first informant, who is currently 8 years old. Shahid Sayed is presently absconding, as there are various orders passed against him which he has failed to comply with, including in proceedings filed by the first informant. It is also noted that Shahid Sayed is a developer by profession.

4. As far as the incident dated 11 February 2025 is concerned, it allegedly occurred at around 19:45 hours and has been captured in the nearest available CCTV footage. According to the prosecution, the footage shows the present applicants assaulting the first informant and her elder daughter, Ekra, who is 19 years old, using fists, kicks, and a wooden stick. It has also been alleged by the first informant that during the incident, her gold ring was snatched. Applicant nos. 1 to 3 are concerned they do not have any antecedents. They are seen in CCTV footage, assaulting the first informant and her daughter. Applicant no.2 is a senior citizen lady, who is mother-in-law of Shahid, being mother of his first wife. Applicant no.2, is the sister of Shahid. Applicant no.3 is 18 years old, and niece of Shahid.

5. In such a situation, according to me, a case is made out for granting Anticipatory Bail Application to the applicant nos. 1 to 3.

ORDER

(a) The anticipatory bail application is partly allowed in respect of applicant nos. 1 to 3.

(b) In the event of arrest of the Applicant No.1-Farida Iqbal Sayed, applicant no.2-Rizwana Wasim Khan and applicant no.3-Faiqa Mujeeb Khokhar, connection with crime no.0159 of 2025 registered in Santacruz Police Station for the offence punishable under section 119 (2), 126 (2), 189(2), 190, 351(2), 351(3) and 352 of the Bhartiya Nyaya Sanhita, 2023, the Applicants shall be released on bail furnishing P.R. bond to the extent of Rs.30,000/- each with one or more sureties of the like amount.

(c) The Applicants shall co-operate with the investigation and attend the investigating officer of the concerned police station in the every week on Tuesday between 11:00 a.m. to 01.00 p.m., thereafter as and when called.

(d) The Applicants shall not directly or indirectly make any inducement, threat or promise to victim and to any person acquainted with facts of case so as to dissuade him/her from disclosing the facts to Court or any Police Officer and should not tamper with evidence.

(e) The Applicants shall furnish his contact number and residential address to the investigating officer and shall keep him updated, in case there is any change.

(f) The Applicants and his surety shall provide their respective mobile numbers, e-mail address and documents pertaining to the place of residence.

6. Needless to say, violation of any of the aforesaid conditions would make the applicants 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 applicants in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

7. Amongst the five applicants, Applicant No. 4 is an adult male aged 27 years, whose occupation is stated as "nil" in the anticipatory bail application. The remaining applicants are females. As per the FIR, all the applicants collectively assaulted the first informant and her daughter. The learned APP has submitted medical reports indicating that both the first informant and her daughter sustained simple injuries on different parts of their bodies. It is further submitted that the weapon allegedly used in the incident, namely a wooden stick, is yet to

be recovered. Similarly, the gold ring allegedly snatched from the first informant has not yet been recovered.

8. The statements of the witnesses have been recorded by the Investigating Officer and are in consistent with the complaint lodged by the first informant. The first informant, along with her three daughters, resides in the same building where the applicants are also residing. Accordingly, the learned advocate for the first informant has submitted that there is a threat to the life and safety of the first informant and her three daughters, especially as there are no adult male members in their household. The accused are also staying in the same building wherein the first informant is staying.

9. It is also relevant to note that prior to the registration of the present FIR, the first informant had lodged two earlier complaints, being FIR No. 335/2019 and FIR No. 280/2019, both of which were filed against the present Applicant No. 5 — Afsana, who is the sister-in-law of the first informant. Therefore, the present FIR is the third FIR lodged against the applicant no.5-Afsana. This fact is not disclosed in the pre-arrest bail application.

10. 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

1 (2022) 17 SCC 391

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)

11. 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)

12. Considering the fact that, as far as Applicant No. 5 is concerned,

² AIR OnLine 1997 SC 797

at least three FIRs are pending against her, and she appears to be involved in the present offence, as can be seen in the CCTV footage referred to by the Investigating Officer, it is evident that she, along with Applicant No. 4 Faiz, was seen pushing the first informant. Applicant No. 4 Faiz, aged 27 years, whose occupation is stated as "nil," is also involved in the present incident, wherein two female victims i.e. the first informant and her daughter were allegedly assaulted by all the applicants. Taking into consideration the allegations made in the FIR, the medical certificate on record, and the other documents produced, as well as the view taken by the Supreme Court in the aforementioned judgments, I am of the opinion that the presence of the applicant No.4 and 5 for interrogation is necessary for the completion of the investigation. I am further of the view that custodial interrogation of the applicant nos. 4 and 5 is essential to ensure a fair and thorough investigation. Hence, no case is made out for granting anticipatory bail at this stage to the applicant nos. 4 and 5. Accordingly, **the anticipatory bail application stands rejected in respect of applicant nos. 4 and 5.**

13. In view of the above, the present Anticipatory Bail Application is disposed of as partly allowed.

14. At this stage, Mr. Aniket Vegal, the learned advocate for the applicants, submits that since the pre-arrest bail application of Applicant

Nos. 4 and 5 has been rejected, they should be granted protection for a period of two weeks from today. The learned APP and the learned advocate for the first informant have opposed the request made by the learned advocate for the applicants. I have already considered the law laid down by the Hon'ble Supreme Court in the earlier paragraphs of this order. It is noted that no protective order was granted by the Sessions Court when the pre-arrest bail application was filed by Applicant Nos. 4 and 5. Although this Court had initially granted interim protection, the same was vacated on 24 April 2025, as time was repeatedly sought by the advocate for applicants, when the matter was called out for hearing. In view of the above circumstances, the request made by the learned advocate for the applicants, stands rejected.

(RAJESH S. PATIL, J.)