



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 723/2025**

VIKRAM AAKARAM GAIKWAD ..APPLICANT
VS
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Rati S. Sinhasane for applicant.
Ms. Rutuja A. Ambekar, APP for State.

CORAM : RAJESH S. PATIL, J.

DATE : MARCH 17, 2025.

P.C. :

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.39/2025 registered with the Laxmipuri Police Station, Kolhapur, for the offence punishable under Sections 336(3), 337, 339, 3(5) of the Bhartiya Nyaya Sanhita, 2023.

2. It is alleged in the FIR that an appointment letter of clerk in the CPR Hospital has been prepared by forging the signature of the Dean of the hospital and also inserting the rubber stamp of the Collector of Kolhapur. The recipient of this appointment letter contacted the hospital and they realized that there was a fraud played. Therefore,

FIR has been lodged. The name of the present applicant has been added after the statement being recorded in the remand application.

3. The learned counsel for the applicant submits that the applicant is innocent. Regarding transfer of certain amounts in the account of the present applicant from the account of the accused no.1, she submits that the same were hand loans and had no connection with the present crime. She submits that there are no criminal antecedents reported against the present applicant and the applicant is ready to cooperate with the investigation.

4. The learned APP submits that the crime committed by the present applicant along with other accused is of serious nature preparing letter with forged signature of the Dean of the hospital and fixing rubber stamp of the Collector, Kolhapur. She submits that the monies have been transferred in the present applicant's account from the accused no.1. There was telephonic conversation between other accused and the applicant and the CDR to that effect are procured and it found that all the accused were in contact with each other at the time of the crime was committed. Therefore, she submits that the present pre-arrest bail application should be rejected.

5. I have heard learned counsel for the parties and have gone

through the FIR.

6. The IO has already obtained the CDR wherein the telephonic conversation between the present applicant and the other accused have been found. There are monies transferred from the account of the accused no.1 to the account of the present applicant. There is no valid reason given for such transfer. The submission of the learned counsel for the applicant that these were hand loans does not appear to be genuine because in the anticipatory bail application there is no such ground taken by the applicant. Granting pre-arrest bail to the applicant at this stage will certainly hamper the investigation process.

7. 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 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

1 (2022) 17 SCC 391

if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

8. 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)

9. Taking into consideration the 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.)

² AIR OnLine 1997 SC 797