

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.736/2025

NABENDU ASHUTOSH BHATTACHARYA ...APPLICANT
VS
STATE OF MAHARASHTRA AND ANR ...RESPONDENTS

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Adv. Harshman Chavan for the Applicant.
Adv. Kunal J. Motwani i/b Ashwin Duggal & Associates for Respondent
No. 2.
Adv. Supriya Kak APP for the Respondent State.
PI Suraj Bansode, Samta Nagar Police Station.
...

CORAM : RAJESH S. PATIL, J.
DATED : APRIL 29, 2025

P.C.:

1. This anticipatory bail application is filed by the applicant under section 482 of Bharatiya Nagrik Surksha Sanhita, 2023 in connection with Crime No.112/2025 registered with Samta Nagar police station for the offences punishable u/s.75(1),75(2), 75(3),75(4),78, 79, 111, 356, 351(2), 351 (3) of Bharatiya Nyaya Sanhita 2023.

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

3. The first informant is a lady who has lodged a complaint. since she was receiving e-mails which was sexually explicit and obscene. She also received the letter on 10 January, 2025. Further she received

an email on 11 January 2005 and a parcel of oil bottles on 14 January 2025 from Jaipur. It was thereafter found that the applicant is the person who along with other co-accused have been sending obscene and threatening e-mails to the informant and also defaming her by giving her mobile number on different porn site. Based on this kind of complaint, an FIR has been lodged.

4. When the matter was argued before me, initially the advocate appearing for the applicant did not admit that the present applicant was in touch with e-mail address called as tneverdies@gmail.com. However, after the communication was shown to the Advocate of the present applicant which included e-mail written by the present applicant to tneverdies@gmail.com which is part of the present anticipatory bail application at page no. 78 and an e-mail written by tneverdies@gmail.com to the applicant. It was argued before me that it was not only the present applicant who used to have access to the applicant's e-mail id, but at least 4 to 5 employees where the applicant used to work, had the password of the e-mail id of the applicant. However, as the advocate appearing for the respondent no. 2 showed that the company had given a different e-mail id for communication to his employees, the advocate for the applicant admitted that there was a different e-mail id given by the company to all its employees.

5. The allegation against the present applicant is that he used the e-mail of tneverdies through whom he was communicating in turn through the said e-mail he is to be in touch with 4 to 5 anonymous e-mail ids, who in turn used to send e-mails which is to be objectionable to the first informant-lady. Since the allegation against the applicant that he used to send e-mails by unknown e-mail ids, therefore, by an order dated 18 March 2025, Google LLC, California, assistance was sought to identify the person who was responsible for generating the e-mails to the first informant-lady. The said report of Google LLC California is placed before me. The said report shows that the e-mail id of the present applicant nabendu76@gmail.com is connected with different phone numbers. Those phone numbers shown are of the present applicant. The fact proves that the present applicant was in touch with e-mail id tneverdies@gmail.com which he had earlier used to send threatening e-mails to the husband of the present applicant. In the said FIR the applicant has been granted bail.

6. At page no. 83 a report of IT TECHNITIAN has been produced. The said certificate shows that as per the electronic record, tneverdies is in touch with e-mail id greeting@simplyecards.com. The date has been shown as 10 January and the location of IP Address is shown as West Bengal. The present applicant's residence is also at West Bengal. The present applicant was also served with a notice under

section 35(3) BNSS Act. However, the present applicant chose not to attend the office of the investigating officer but has only send an e-mail to the investigating officer. The applicant is not ready to co-operate with the investigating officer. There are high chances that the present applicant if granted bail, will tamper with the prosecutions evidence and will not co-operate with the investigating officer. The offences is of very serious nature where various emails have been sent to the first informant-lady. The contents of the said e-mails are objectionable. The applicant has ultimately admitted that he is in touch with an e-mail named as tneverdies@gmail.com. The said e-mail address is in touch with various other anonymous e-mails address, which are sending objectionable messages to the first informant-lady.

7. 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

1 2022 SCC Online SC 1529

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)

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. Considering the law as set out by the Supreme Court in the above judgments and the allegations made against the present applicant, I am of the view that there is no merit in this anticipatory bail application. Hence, the anticipatory bail application stands rejected.

(RAJESH S. PATIL, J.)

² AIR OnLine 1997 SC 797