

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 740 OF 2025

Gopal Brahmanlal

s/o. Narayan Brahmanlal

..... Applicant

VERSUS

State of Maharashtra

..... Respondent

Mr. R. M. Jabali for the Applicant.

Mr. Avinash A. Naik, A.P.P. for the State.

Mr. Prabhakar Shiurkar, A.P.I., APMC Police Station present.

CORAM : RAJESH S. PATIL, J.

DATE : 19th MARCH, 2025

P.C. :-

This is anticipatory bail application filed by the applicant in connection with C.R. No.381/2024 registered with APMC Police Station, for the offences punishable under Sections 62, 303 of Bharatiya Nyaya Sanhita, 2023 and Section 15 of the Petroleum and Minerals Pipeline Act, 1962.

2. Crime was registered based on a report filed by the informant-manager of Petroleum Company. The manager is working in pipeline department of the Petroleum company. Based on information received of theft at one pipeline running from Mumbai Oil Refinery at

Mahulgaon (Chembur) to Manmad, the officials of the company visited the site on 6th September 2024, where, they found that there was a leakage of diesel. Based on the visit, they took steps and they found that there is theft of at least 100 liters of diesel of the company, on the basis of which, the FIR was lodged.

3. The learned A.P.P. submits that there are three antecedents as far as the present applicant is concerned. One of such antecedent recorded at Narpoli Police Station, Bhiwandi is the similar kind of crime. Two other criminal antecedents are regarding body offences registered with the R.C.F. Police Station, Chembur, Mumbai. It is further submitted that the statement of the co-accused dated 11th October, 2024 clearly mentions the name of the present applicant and the role played by him.

4. The learned A.P.P. further submits that the investigation is still in progress and the Investigating Officer needs to arrest the present applicant in order to complete the investigation. The offence is of serious nature since the diesel which is robbed by the present applicant is the national property. Apart from the theft, what is more concerning is such type of tapping would be dangerous to the citizens in general, if any untowards incidents occurs due to the act of the

accused and the co-accused.

5. I have heard the learned counsel for both the sides and I have considered the documents on record.

6. The act of the present applicant of theft from the pipeline of the oil refinery according to me is of a very serious nature as not only the theft is committed of Government refinery, but, it might lead to a very dangerous situation if an untoward incident occurs.

7. There are three antecedents recorded against the present applicant. One of such antecedent is of similar nature of theft of diesel. The other co-accused in his statement has named the present applicant. The investigation is still in progress.

8. 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

1 (2022) 17 SCC 391

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)

9. 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)

10. Taking into consideration, the law laid down by the Supreme Court and the allegations against the present applicant in the FIR and

2 AIR OnLine 1997 SC 797

similar kind of antecedent of the present applicant, **the anticipatory bail application is rejected.**

[RAJESH S. PATIL, J.]