



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

ANTICIPATORY BAIL APPLICATION NO. 799/2025

1. VIKRANT SHRIDHARRAO DESHMUKH
2. AJAY SHRIRAM AADE ..APPLICANTS
VS
THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Harekrishna Mishra for the applicants.

Ms. Supriya Kak, APP for State.

Adv. Karan Mehta a/w. Adv. Asha K. Mehta, Adv. Nishant Sha, Adv. Saloni Sarguru, Adv. Ashiwin Pande i/b. Karan Mehta & Asso. For the informant.

API Gawai, Marine Drive Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 4, 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.52/2025 registered with the Marine Drive Police Station, Mumbai, for the offence punishable under Sections 126(2), 127(2), 308(4), 308(5), 352, 351(2), 115(2), 3(5) of the Bhartiya Nyaya Sanhita, 2023.

2. On the basis of the complaint, the FIR has been lodged. The

role of the present applicants has been mentioned in the FIR.

3. It is submitted on behalf of the applicants that they and the informant were friends at the time when they were jointly running a hotel called 'Madness Bar' in Goregaon, Mumbai. However, after some time, they decided to operate the business in turns. Whenever the present applicants turn to conduct the hotel business, the returns were good. During the turn/period of the informant there were heavy losses. Therefore, ultimately, the said hotel business was shut down in April 2024. Specifically it has been lodged that on 25/2/2025, while informant was at 'Sea Green' hotel, the present applicants along with other accused persons assaulted the informant. It is alleged that the informant was made to sign certain documents. Thereafter, the informant was pushed into a Mercedes car, however, the informant managed to not go inside the car. At that time, friend of the informant recorded the whole incident on his mobile phone. He was not able to interfere in between the said act of the accused as one of the person along with the accused introduced himself as a police officer.

4. The learned counsel for the applicants submitted that the Section 308 of the BNS, 2023 – extortion is not attracted. The

applicants have also lodged the complaint with the police station, however, the police have not acted on the said complaint. It's the civil dispute between two partners, the informant has tried to give colour of criminality to the said dispute. The applicants are ready to cooperate with the police.

5. The learned APP and the learned counsel for the informant have opposed this application. They submitted that there is a video footage wherein it has been seen that the applicants along with other accused persons have assaulted the informant and were trying to push him inside the car. The whole incident has been recorded on a mobile phone of one of the friend of the informant. The recording of the same has been shown to the Court. A serious offence of extortion has been committed by the present applicants. The provisions of Section 308 of the BNS, 2023 is attracted. If the applicants are enlarged on pre-arrest bail, there will be threat to the present informant and also to his friends who were told to sign the documents of admitting the amount of Rs.1,10,00,000/- is due from the informant. The friends were told to sign as witnesses to the said writing.

6. I have heard the learned counsel for the applicants, the learned

APP appearing for the State and the learned counsel for the informant. I have also gone through the FIR and the documents on record.

7. The video footage produced by the IO clearly shows that the applicants are making an attempt to push the informant into a car. The said video recorded, according to the IO, has been supplied to them by the informant's friend. So also, the IO is in the process of getting more footage from the nearby CCTV camera installed in nearby buildings. The learned APP has also shown him the supplementary statement of the informant dated 28/2/2025. In the said supplementary statement, the informant has clearly stated that the applicants have threatened the informant to give in writing that Rs.1,10,00,000/- is due and the friends who were along with the informant were told to sign as witnesses to the said document. The said document due to the threat of the applicants, was prepared and signed by the informant and the said document is in the custody of the applicants.

8. The learned APP has also shown me the statement of the receptionist and the staff of the hotel 'Sea Green' who have also confirmed that the informant was assaulted.

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 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

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

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 contents of the complaint, the video footage shown to me and the statement of the receptionist and the staff of the ‘ Sea Green’ hotel, the supplementary statement of the informant and the law laid down by the Supreme Court as noted above, the physical presence of the applicants for interrogation is necessary for completion of the investigation. Moreover, the possibility of pressurizing and threatening witnesses and tampering with the evidence cannot be ruled out. Hence, no case is made out to grant pre-arrest bail to the present applicants. **The anticipatory bail application of the applicants stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)