

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 881 OF 2025

Rajan Ramchandra Pail Applicant

VERSUS

State of Maharashtra Respondent

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO. 882 OF 2025

Pankaj Bandu Pail Applicant

VERSUS

State of Maharashtra Respondent

Mr. Taraq Sayed a/w. Mr.Anish Pereira, Ms.Ashwini Achari,
Mr.Devashish Dhanjode for the Applicants in both ABA.

Ms.Rutuja A. Ambekar, A.P.P for the State in both ABA.

Mr.Vaibhav Pawar, P.S.I., Nalasopara Police Station present.

CORAM : RAJESH S. PATIL, J.

DATE : 2nd APRIL, 2025

P.C. :-

These applications are filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 0105/2025 dated 15th March, 2025 registered with

Nalasopara Police Station for the offence punishable under Sections 118(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

2. The four applicants had filed an application granting pre-arrest bail. The said application is rejected by the Sessions Court by an order dated 24th March, 2025. Today before this Court only two of the applicants have filed pre-arrest bail application.

3. In the complaint filed by the victim, an FIR was lodged. The role of the present applicants have been mentioned in the said FIR.

4. It is submitted on behalf of the applicants that the cross FIR was lodged by Rajan Ramchandra Patil who is the applicant in Anticipatory Bail Application No. 881 of 2025. It is submitted that the FIR filed by the applicant Rajan Ramchandra Patil was prior in time than the present FIR. The sword was used by the victim to harm the applicants. However, the applicants saved themselves from the injury. Therefore, there was simple hurt on the neck of the applicants. The applicants and the first informant are related to each other. Due to certain issues in the family, there was a scuffle between the parties which led to filing of the FIRs. The applicants are ready to co-operate with the police and custody of the present applicants is not necessary.

5. The learned A.P.P. is opposing these present applications and

submits that the injury to the victim is of grievous nature. There are nine injuries to the body of the victim, and out of which three injuries are of grievous nature. She submits that one injury is on the head of the victim and there are nine stitches on the head. She submits that since the offence is of grievous in nature, it will be necessary to take custody of the present applicants. She submits that if the applicants are released on bail, they will be danger to the victim and the witnesses.

6. I have heard learned counsel for both the sides and I have considered the medical certificate produced by the applicant and so also, the photographs of the victim produced by the learned A.P.P. There are in total nine injuries on the body of the victim. Out of nine injuries, three injuries are of serious nature and on the head there are nine stitches. As far as the cross FIRs filed by the present applicant Rajan R. Patil is concerned, the injuries mentioned therein is of simple nature. The victim in the present FIR has injuries on his grip, forearm and head. The weapons used by the applicant in the present crime is yet to be recovered.

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 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

1 (2022) 17 SCC 391

2 AIR OnLine 1997 SC 797

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 gravity of the offence, 9 stitches to the victim on his head and other nine injuries to his body, three of which are of serious nature and considering the law laid down by the Hon’ble Supreme Court in the above judgments, according to me no case is made out to grant protection to the present applicant. Hence, **both the anticipatory bail applications are rejected.**

[RAJESH S. PATIL, J.]