

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 924 OF 2025

AMOL
DILIPRAO
NAWALE

Devesh S Mishra

...Applicant

Versus

State Of Maharashtra

...Respondent

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by AMOL
DILIPRAO
NAWALE

Date: 2025.04.05
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Mr. K. C. Pandey, Advocate for the Applicant.

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

CORAM : RAJESH S. PATIL, J.

DATED : 3 APRIL 2025

P.C.:

1. Apprehending arrest in connection with Crime No.118/2025 registered at Nerul Police Station, for the offences punishable under Sections 308 (2), 308 (3), 351 (2) of Bharatiya Nyaya Sanhita, 2023, the applicant preferred present application under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. In the same crime, an anticipatory bail application was filed yesterday by a co-accused who also claimed to be a journalist with *Samarth Sahara* newspaper. After the anticipatory bail application of the co-accused was argued, this Court showed its inclination to reject the same. Consequently, Mr. Pandey, the learned advocate for the applicant, on instructions, sought liberty to withdraw the anticipatory bail

application, which was accordingly withdrawn.

3. For ease of reference, the said order dated 2 April 2025 passed in anticipatory bail application No. 903 of 2025 is reproduced herein below:

"1. After the matter was argued for some time, Mr. Shaikh, learned counsel for the applicant, sought liberty to withdraw the present anticipatory bail application.

2. Anticipatory bail application is disposed of as withdrawn."

4. The learned advocate for the applicant submits that none of the allegations mentioned in the FIR are attributable to the present applicant. The applicant, being a journalist, had lodged a complaint regarding illegal activities being carried out in a restaurant and bar. Based on this complaint, the police took action against the said restaurant and bar. A copy of the said complaint is available on page 46 of the anticipatory bail application. Therefore, out of sheer vengeance, the present FIR has been lodged against the applicant and co-accused. Hence, the custody of the present applicant is not necessary.

5. The learned APP submits that in the present crime, the applicant, who claims to be a journalist, has preferred an anticipatory bail application. A co-accused, who also claimed to be a journalist, had earlier preferred an anticipatory bail application, which was withdrawn after this Court showed its disinclination to grant relief. The learned APP submits that the applicant is misusing his position as a journalist to extort money from hotel owners. He further submits that the offence is

of a very serious nature, as the applicant has threatened the complainant and demanded extortion money from hotel owners under the guise of journalism. The investigation is ongoing, and therefore, the custody of the applicant is necessary. Despite the police issuing a notice under Section 35(3) of the BNSS Act, 2023, the applicant chose not to attend the police station and failed to cooperate with the investigation. Therefore, this application deserves to be rejected.

6. The learned APP also submits that *Samarth Sahara*, the said newspaper, is published only in Madhya Pradesh, Chhattisgarh, and Uttar Pradesh. This fact is evident from page 73, which contains a copy of the newspaper explicitly mentioning its circulation areas.

7. In rejoinder, the learned advocate for the applicant submits that pages 44 and 45 of the record show that *Samarth Sahara* is also published in Navi Mumbai.

8. I have heard the learned advocates for both sides and have examined the documents on record.

9. The issue also arises as to whether *Samarth Sahara* is published in the Navi Mumbai/Panvel area. Upon examining pages 44 and 45, it is observed that the newspaper only mentions circulation in Uttar Pradesh, with no reference to Maharashtra or Panvel. This raises concerns regarding the authenticity of the applicant's claim that the

newspaper has any kind of publication or circulation in Navi Mumbai/Panvel.

10. The Investigating Officer had issued a notice under Section 35(3) of the BNSS Act to the present applicant. However, the applicant chose not to attend the office of the Investigating Officer, thereby failing to cooperate with the investigation.

11. A co-accused, who also claimed to be a journalist like the present applicant, had moved a pre-arrest bail application before me yesterday. The said application was argued at length, and after I expressed my disinclination to grant any relief, the pre-arrest bail application was withdrawn.

12. The present applicant also claims to be a journalist working for *Samarth Sahara*. He appears to have sent certain messages to hotel owners in Panvel and Belapur and posted tweets from his WhatsApp account. He also appears to have sent voice clips in which he is heard threatening hotel owners. It appears that the applicant is misusing his position as a journalist to intimidate hotel owners and demand extortion money from them.

13. If the applicant was genuinely concerned about illegal activities being conducted in hotels, he would have filed a formal complaint with the concerned police station or any other government department.

There is no valid reason for the applicant to have attended a meeting with hotel owners at 10:00 p.m. on 30 September 2024. Additionally, there is no explanation as to why, after lodging a complaint, the applicant visited the same hotel at 10:00 p.m. on 30 September 2024.

14. 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)

15. 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

¹ (2022) 17 SCC 391

² AIR OnLine 1997 SC 797

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)

16. Taking into consideration allegations made in the FIR, the documents on record and considering the view taken 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.)