

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 940 OF 2025

Gaurav Ram Achebar Mishra	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr. Nitesh Pandit a/w. Sachin Tiwari, Advocate for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State.

Mr. Bhushan Sonar, IO Indiranagar Police Station Nashik City present.

CORAM : RAJESH S. PATIL, J.

DATED : 7 APRIL 2025

P.C.:

1. This application is filed by the applicant Gaurav Ram Achebar Mishra for grant of anticipatory bail under Section 482 of the Bharatiya Nagrik Suraksha Sanhita (BNSS) in connection with crime no.82 of 2025 registered with respondent/Indira Nagar Police Station under Sections 352, 351(3), 351(2), 318(4), 316(2), 205 of Bharatiya Nyaya Sanhita, 2023.

2. On the basis of the complaint an F.I.R. has been lodged. The role of the present Applicant has been specifically mentioned in the F.I.R.

3. The learned advocate for the present applicant submits that the applicant is innocent and has not committed any crime. There is a delay in lodging the FIR. It is submitted that due to certain disputes between the applicant and the informant, a false report has been lodged against the applicant. The applicant has not cheated the informant, and there is nothing to be recovered from him. The applicant is willing to abide by any condition that may be imposed by this Hon'ble Court.

4. The learned APP has strongly objected to the grant of any protective relief in favour of the applicant. She submits that there are three criminal antecedents against the applicant. It is further submitted that, as per the statement recorded by the Investigating Officer, there is an admission that the applicant had received money in exchange for promising to arrange a "Revolver License." Additionally, six photographs procured by the Investigating Officer, shows that applicant is dressed in the uniform of the Indian Revenue Service (IRS). The learned APP submits that custodial interrogation of the applicant is necessary to ascertain how many persons have been deceived and defrauded by him.

5. I have heard the learned advocates for both parties and perused the documents available on record.

6. It is evident that there are at least three antecedents against the present applicant, who claims to be the proprietor of M/s. Atharva

Construction. Photographs of the applicant dressed in the IRS uniform have been shown to this Court.

7. The applicant submission is that an IRS officer was residing in a flat owned by the applicant, and the said uniform was left in the flat. The applicant wore the uniform and clicked photographs, and for that reason, which explains the photographs showing him dressed in the IRS uniform.

8. In my view, even such an act amounts to a criminal offence, where the applicant appears to be impersonating a high-ranking government official by wearing the IRS uniform and using a vehicle fitted with a beacon light (Ambar Diva). He is clearly seen in the IRS uniform in the photographs.

9. The allegations against the applicant are that he assured the informant he could obtain a revolver license valid throughout India. A sum of Rs.2,50,000/- was allegedly paid to the applicant for this purpose. However, the applicant neither procured the license nor returned the sum of Rs.2,50,000/-, which led to the lodging of the present FIR.

10. 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

¹ (2022) 17 SCC 391

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)

11. 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)

2 AIR OnLine 1997 SC 797

12. Taking into consideration allegations made in the FIR, the documents on record and considering the view taken by the Supreme Court in above judgments, the physical presence of the applicant for interrogation is necessary for completion of the investigation. Moreover, the possibility of pressurizing or threatening the witnesses and tampering with the evidence cannot be ruled out. Considering the three criminal antecedents against the applicant, his act of impersonating an IRS officer, and the use of a vehicle fitted with a beacon (Ambar Diva), I am of the view that custodial interrogation of the applicant is essential to ensure a fair and thorough investigation. Hence, no case is made out for granting anticipatory bail at this stage. Accordingly, **the anticipatory bail application stands rejected and is disposed of.**

(RAJESH S. PATIL, J.)