



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 947/2025

KESHAV MARUTI TARE AND ANR ...APPLICANTS  
VS  
STATE OF MAHARASHTR AND ANR. ...RESPONDENTS

...  
Adv. Sumeet Bansode h/f Sadandand Bansode for the Applicants.  
Adv. Amit A. Palkar, APP for the Respondent State.  
...

CORAM : RAJESH S. PATIL, J.  
DATED : MAY 8, 2025

P.C.:

1. In the present proceeding the matter was fully argued before me on 29 April 2025, so also on 5 May, 2025. On the request made by the advocate appearing of the applicants, in order to take instructions from their clients, a short accommodation was granted to the then advocate appearing for the applicants.

2. Today Mr. Sumeet Bansode holding for Sadandand Bansode, learned counsel for the applicants has submitted before me that he wants a short accommodation in the matter in order to file his vakalatnama as the earlier advocate would no more appear in this matter.

3. I permitted Mr. Sumeet Bansode appear on behalf of the

applicants to make his submissions in the present proceedings.

4. This is an application filed by applicants for seeking interim protection in C.R.No.53/2025, registered at Bhiwandi Taluka Police Station, Bhiwandi, for the offence punishable under sections 118(2), 351(2), 352, 324(4) (5), 3 (5) of BNS.

5. Based on the complaint, an FIR has been lodged. The role of the present applicants has been specifically mentioned in the FIR.

6. The complainant herein is a watchman of the subject property. It is alleged that the subject property belongs to one Faiza. Shikil Sheth, who is a relative of the owner of the said property. Certain containers and cabin are kept on the said property therefore, the complainant was appointed as a watchman. It is alleged that the applicant no. 1 along with his relative used to visit the suit property and quarrel with Shakil with regards to the said property being survey no. 79/4/B. On 3 February 2025 when the complainant was at night duty, both the accused visited the site and started quarreling with the complainant. Both the accused torn the board which was fixed by Shakil Sheth and started abusing the complainant. So also, they entered into the cabin of the complainant. The applicant no. 2 Kanhaiya took the stick from the complainant and started thrashing the complainant. As the complainant fell down, both applicants started beating the

complainant with kicks and blows. They further threatened the complainant that they will kill the complainant. Thereafter, they left the spot of the incident. Based on this act of the applicants, an FIR has been lodged.

7. It is the matter on record that civil suits are pending between the parties regarding the subject land bearing survey no. 79/4/B. So also there were suits filed between the parties as regards the other lands. Though the suits are pending between the parties, without obtaining a possession decree, the present applicants are not permitted to enter forcefully into the subject land and further assault the occupier or their persons. Even on the earlier occasion, it has been argued before me that similar kind of acts have been done by the present applicants. After filing of this FIR on 5 February 2025, it has been pointed out by the learned APP that the present applicants have further threatened the complainant. Pursuant to which N.C.s are filed on 6 February 2025 and on 11 February 2025.

8. Considering the conduct of the present applicants, according to me, granting any kind of protection to the present applicants will further give them a chance to threatened the witnesses, occupier and the complainant.

9. The Supreme Court in case of *Sumitha Pradeep vs. Arun*

***Kumar C.K. and another***<sup>1</sup> 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*<sup>2</sup>, 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

1 2022 SCC Online SC 1529

2 AIR OnLine 1997 SC 797

manner and that those entrusted with the task of disinterring would not conduct themselves as offenders.”

(Emphasis supplied)

11. Considering the law as laid down by the Supreme Court and the fact that the present applicants even after lodging of the FIR have further threatened the complaint, pursuant to which N.C.s have been lodged, according to me, the present anticipatory bail application liable to be rejected. Hence, anticipatory bail application stands rejected.

**(RAJESH S. PATIL, J.)**