

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.976 OF 2025

Sunny Ganesh Devendra	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Ajay Tripathi, Advocate for the applicant.

Ms. Pallavi Dabholkar, APP for the State.

Ms. Sonali Mirkale, PSI Dadar Police Station present.

CORAM : RAJESH S. PATIL, J.

DATED : 9 APRIL 2025

PC.:

1. This is an application for anticipatory bail under Section 482 of the Bharatiya Nagarik Sanhita ("BNSS" in short) in connection with C.R. NO.112 of 2025, registered with Dadar Police Station, Mumbai for offences punishable under Sections 115, 118(1), 3(5), 352 of the Bharatiya Nyaya Sanhita.

2. There is an ongoing family dispute regarding the succession of immovable property left behind by the deceased grand mother Ramaiya Raman Devendra. Following the last rites of the grandmother, which were conducted on the same day, the successors began to quarrel over their respective shares in the property. This dispute escalated into a

violent altercation involving deadly weapons. As alleged in the FIR, the informant was stabbed in the back with a sharp weapon. It is further alleged that the present applicant used the said weapon to assault the informant.

3. The learned advocate for the applicant submits that the applicant has no criminal antecedents and is willing to cooperate with the investigation. It is further submitted that it needs to be ascertained whether the injury caused to the informant was simple or grievous in nature. It is also alleged that the injury may have been self-inflicted and that the applicant has been falsely implicated. Therefore, the custody of the present applicant is not necessary.

4. The learned APP submits that the victim sustained an injury that required 12 stitches. The knife blow on the back of the informant, allegedly inflicted by the present applicant, resulted in significant bleeding. The investigation is still ongoing, and custodial interrogation of the applicant is necessary.

5. I have heard the learned advocates for both sides and perused the documents on record, including the FIR.

6. There are specific allegations against the applicant of having used a knife to assault the informant. The informant has sustained a serious injury on his back, requiring 12 stitches, allegedly due to the act of the

present applicant. Since the investigation is still in progress, there is a likelihood that, if released on bail, the applicant may attempt to influence witnesses or tamper with the prosecution evidence.

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

¹ (2022) 17 SCC 391

² AIR OnLine 1997 SC 797

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)

9. Taking into consideration the allegations made in the FIR, the medical certificate on record, and the other documents produced, as well as the view taken by the Hon’ble Supreme Court in the aforementioned judgments, I am of the opinion that the physical presence of the applicant for interrogation is necessary for the completion of the investigation. I am further 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.)