

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**ANTICIPATORY BAIL APPLICATION NO.1006/2025**

|                               |               |
|-------------------------------|---------------|
| SAYARA BEGUM AJMAT ALI SAYYED | ...APPLICANT  |
| VS                            |               |
| THE STATE OF MAHARASHTRA      | ...RESPONDENT |

...

Adv. Gaurav Bhawnani for the Applicant.  
Adv. Supriya Kak, APP for the Respondent State.  
API Sandip Mhaske, Dharavi Police Station.

...

**CORAM : RAJESH S. PATIL, J.**  
**DATED : APRIL 22, 2025**

**P.C.:**

1. This is an application for anticipatory bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita in connection with C.R.No. 120 of 2025, registered with Dharavi Police Station, Mumbai for offences punishable under sections 318(4), 336(2), 336(3), 340(2), 3(5) of Bharatiya Nyaya Sanhita and Rule (3) r/w Rule (6) of the Passport (Entry into India) Rules, 1950, para 3 (1) (a) of the Foreigners Order, 1948, and Section 14 of the Foreigners Act, 1946,

2. On the basis of complaint an FIR has been lodged. The role of the present applicant is specifically mentioned in the FIR.

3. It is the case of the prosecution that the accused Israfil Ali Ajmat Ali Sayyed and Akash Ali Ajmat Ali Sayyed are Bangladeshi as per

the FIR. They entered into India 15 years before, with their maternal aunt-the present applicant without any passport and without any authorization. It is further alleged in the FIR that the said two accused stayed illegally in Mumbai along with the present applicant and her husband by procuring documents of their identification, including that of birth certificate and passport. As the police suspected the identity of both the accused, they had called them to police station and while the inquiry was conducted, it was revealed that they are illegal immigrants, hence, they were arrested along with the husband of the present applicant. It was found that forged pan cards, driving licenses and other documents were prepared of both the accused. The said two accused and the husband of the present applicant after being in custody for 20-25 days are released on regular bail.

4. The learned counsel for the applicant submits that the prosecution has not presented any independent witness or forensic evidence to show the involvement of the present applicant in the crime. The other accused persons have already been released on bail. The applicant is ready to co-operate with the investigating officer. Therefore, the custody of the present applicant is not necessary.

5. In response APP submits the applicant has forged documents which includes Pan Cards, Aadhar Card, Driving Licenses, Municipal Birth Certificates and Passports. The applicant has falsely

stated that she is mother of co-accused, who are Bangladeshi citizens. It is revealed that the applicant in fact is the aunt of co-accused. Custody of applicant would be necessary to find out who has helped her in procuring forged documents.

6. I have heard the counsel for both the sides and have gone through the documents produced before me including the FIR and the statements recorded by the investigating officer.

7. Supreme Court in *Sarbananda Sonowal v/s. Union of India & Anr*, reported in (2005) 5 SCC 665, held that illegal migrants contribute significantly in causing serious internal disturbances in the shape insurgency of a alarming proportions, making the life of people of wholly insecure and creating fear psychosis.

8. It is alleged that the present applicant has harbored illegal immigrants and also with the help of certain persons obtained forged documents of the identification of the two arrested co-accused. The present applicant identified herself as mother of the two illegal immigrants and that she has genuinely obtained their passports, birth certificates etc. The allegation against the present applicant is that she is a key person in procuring the forged documents.

9. The APP has tendered statements recorded by the investigating officer of two persons, who are the biological sons both of

them have stated that the present applicant is in fact a Bangladeshi Citizen. The Municipal Corporation of Greater Mumbai, who is authority, to issues birth and death certificates, by their communication dated 21 March, 2025 informed the investigating officer that the birth certificates of co-accused Israfil Ali Ajmat Ali Sayyed (who is her nephew and she claims to be his mother) is fake and there is no entry of his birth in records. It is further stated that as far as accused Akash Ali Ajmat Ali Sayyed is concerned, in fact the birth date noting and the number of the noting i.e. ME6604 pertains to one boy "Abutalib." The present applicant has in fact obtained a forged birth certificate bearing registration no. ME6604 with the name of Akash Ali Ajmat Ali Sayyed.

10. Considering the facts that a Corporation document has been forged and the statement of the biological sons of the applicant according to me, is enough to reject the present pre arrest bail application. In order to complete the investigation it would be necessary for the investigating officer to also find out how many other persons are involved with the present applicant in manufacturing forged documents of both the accused Israfil Ali Ajmat Ali Sayyed and Akash Ali Ajmat Ali Sayyed, which includes documents viz. Birth Certificates, Pan Cards, Driving License and Passports. The physical presence of the applicant for interrogation is necessary for completion of investigation. Moreover, there is a possibility that the applicant pressurizing and threatening the

witnesses and likely to tamper with evidence.

11. 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)

12. 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

1 2022 SCC Online SC 1529

2 AIR OnLine 1997 SC 797

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)

13. Taking into consideration the allegations, the role of the present applicant has specifically mentioned in the FIR and taking into consideration the law laid down by the Supreme Court in the judgments referred above, I find no merits in the present anticipatory bail applicant. Hence, **anticipatory bail application stands rejected.**

(RAJESH S. PATIL, J.)