

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

ANTICIPATORY BAIL APPLICATION NO. 1008/2025

ALOK RAVINDRA DUBEY

..APPLICANT

VS.

STATE OF MAHARASHTRA

..RESPONDENT

Adv. Ramawatar Meena a/w. Adv. Vinod Y. Mishra for the applicant.
Ms. Rutuja A. Ambekar, APP for State.
PSI Manish Hajare (Pairavi Officer), Dahisar Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 24, 2025.

P.C. :

1. This application is filed under Section 438 of the Code of Criminal Procedure for seeking pre-arrest bail in connection with the First Information Report (FIR) No. 212/2013 registered with the Dahisar Police Station, for the offence punishable under Sections 306 read with 34 of the Indian Penal Code.

2. Based on the complaint, the FIR has been lodged. The role of the present applicant has been specifically stated in the FIR. The informant has lodged an FIR on 11/5/2013 alleging therein that his uncle committed suicide by leaving behind a suicide note wherein it

is stated that the loans were taken by the said uncle of the informant from the co-accused Arun Bhatia and Latif Khan and as the said persons were harassing him and further, the present applicant with one co-accused Vikram Singh had threatened the uncle of the informant that if he does not repay the loan they will murder him. Due to the constant threats and harassment by the present applicant, the uncle of the applicant has committed suicide, on the basis of which FIR No.212/2013 was lodged.

3. When the summons was served at the address of the present applicant, during the said time the present applicant was absent and his son was present in the house. The son of the present applicant informed that the present applicant has left the house on 18/11/2012 with one Mr. Parmeshwar Mishra and not return back.

4. The pre-arrest bail application before the Sessions Court is filed in the month of January 2025 after a lapse of around eleven years on the ground that the applicant has no knowledge about lodging of the FIR. The fact that when summons were served on the applicant, his son has informed the police that the present applicant had left the house in the year 2012 and whereabouts of the present applicant were not known. In the entire grounds as mentioned in the pre-arrest

bail application before this Court and pre-arrest bail application before the Sessions Court, there is no explanation for such a long delay in filing of the pre-arrest bail applications, when the FIR was lodged 11 years ago.

5. As per the prosecution, the present applicant is absconding and has not cooperated with the investigation. The charge-sheet has already been filed against the arrested accused. The present applicant has been shown as absconding. The investigation against the present applicant is still pending. In the suicide note, the name of the present applicant has been mentioned as he was giving ill-treatment and threats to the victim. The offence committed by the present applicant is of a serious nature. There is an angle of monies being lent to the victim and other persons and thereafter, they being threatened to repay the loan amount. The victim has committed suicide because of the alleged action committed by the present applicant. The applicant is absconding from the present offence for eleven years.

6. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*¹ 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

1 (2022) 17 SCC 391

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)

7. 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)

8. Taking into consideration the gravity of the offence committed by the present applicant, the law laid down by the Supreme Court as

2 AIR OnLine 1997 SC 797

noted above and as he has not cooperated with the IO, the physical presence of the applicant for interrogation is necessary for completion of the investigation. Moreover, the possibility of pressurizing and threatening witnesses and tampering with the evidence cannot be ruled out. Hence, no case is made out to grant pre-arrest bail to the present applicant. **The anticipatory bail application of the applicant stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)