

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1022 OF 2025

Pravin Magan Atkale

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Pawan Mali, Advocate for the applicant.

Ms. Rutuja A. Ambekar, APP for the State.

Mr. Rajesh Gajjal, PI Badalapur East Police Station present.

CORAM : RAJESH S. PATIL, J.

DATED : 24 APRIL 2025

P.C.:

1. This is an application for grant of anticipatory bail under section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 filed by the applicant/accused in C.R.NO.I-558/2024 registered with Badlapur East Police East Police Station under sections 64(1), 336(2), 336(4), 340(2), 61(2), 3(5), 217, 228, 231, 236, 60, 336(3), 337, 339 of Bharatiya Nyaya Sanhita, 2023 and Section 67 (c) (d) (a) of Information Technology Act.

2. The applicant is accused no. 4, who claims to be an advocate by profession. It is submitted on behalf of the applicant that he has no role in the present crime and is ready to cooperate with the investigation. A notice under Section 35(3) of the BNSS Act was issued to the applicant. The applicant has cooperated with the investigation, and the charge

sheet has been filed on 27 February 2025 against four accused persons. Thereafter, a pre-arrest bail application was filed by the applicant before the Sessions Court in March 2025, which was rejected by the Sessions Court on 1 April 2025. Subsequently, the present pre-arrest bail application has been filed. In the present FIR, the complainant Ranju Sharma is now an accused and till date she is absconding.

3. It is submitted that since the charge sheet has already been filed and a notice under Section 35(3) of the BNSS Act was issued, the investigation procedure stands completed and the custodial interrogation of the applicant is not necessary. It is further submitted that the conspiracy, if at all, was committed by Sunny Chauhan, Bhavesh Totalani, Prathamesh Yadav, Rajnit Randhawa, and Ranju Sharma. The applicant, being a senior of Sunny Chauhan, has appeared in his eight cases. One of which involved matrimonial proceedings.

4. On behalf of the applicant, reliance is placed on the judgment of the Hon'ble Supreme Court in *Siddharth v. State of Uttar Pradesh & Anr.*, reported in (2022) 1 SCC 676.

5. The learned APP submits that the present applicant is, in fact, the mastermind behind the entire crime. The junior of the present applicant had a matrimonial discord with his wife, who subsequently filed proceedings under Section 498-A of the Indian Penal Code. In

retaliation, a conspiracy was allegedly hatched to falsely implicate the brother (Abhishek Singh) of the wife of Sunny Chauhan.

5A. It was argued on behalf of Sunny Chauhan that a notice under Section 35(3) of the BNSS Act was issued to the present applicant and that he has appeared before the Investigating Officer. Therefore, it is submitted that the present pre-arrest bail application should be allowed. It was further submitted on behalf of the applicant that the investigation qua the present applicant is complete.

6. A "honey trap" was laid for Abhishek Singh, and his Aadhaar card was forged at a lodge to create grounds for lodging a false rape case against him. A fake Snapchat account in the name of Abhishek Singh was created by Prathamesh Yadav, through which objectionable messages were allegedly sent to co-accused Ranju Sharma.

7. Arrested accused Prathamesh Yadav has named the present applicant as the mastermind of the present crime. Two accused persons have been arrested, while a few others are still absconding. Granting any kind of protection to the present applicant would hinder the investigation process. Therefore, the pre-arrest bail application of the applicant deserves to be rejected.

7A. The learned APP submitted that merely because the charge sheet has been filed, it does not automatically entitle the present applicant to

be granted pre-arrest bail. Reliance was placed on the judgment of the Hon'ble Supreme Court in *Sumitha Pradeep v. Arun Kumar C.K. & Anr.*, reported in (2022) 17 SCC 391, wherein it was held that custodial interrogation may not be necessary in every case. However, the learned APP submitted that in the present case, considering the nature of allegations and the stage of investigation, custodial interrogation of the applicant is necessary. She further submitted that the applicant is always at liberty to approach the Trial Court for regular bail.

8. I have heard the learned counsel for the applicant and the learned APP for the State. I have also gone through the FIR and the documents on record.

9. The present applicant claims to be an advocate by profession and a senior to Advocate Sunny Chauhan. The co-accused Sunny Chauhan had a matrimonial discord with his wife, who subsequently filed proceedings under Section 498-A of the Indian Penal Code. From the documents on record, it appears that a conspiracy was thereafter hatched, wherein the present applicant, along with a few other accused persons, allegedly decided to file a false rape complaint against Abhishek Singh, the brother of Sunny Chauhan's wife.

10. A forged Aadhaar card in the name of Abhishek Singh was prepared. It was alleged that in a lodge, the accused Ranju Sharma prepared a ground to believe that a person named Abhishek Singh had

come to the lodge and, after giving her certain intoxicants, committed rape on her. It is relevant to note at this stage that co-accused Ranju Sharma is working as a "bouncer".

11. CCTV footage from the lodge shows the presence of most of the accused persons. Furthermore, it is evident that a Snapchat account was created in Uttar Pradesh in the name of Abhishek Singh by co-accused Prathamesh Yadav. From this account, certain photographs were sent to Ranju Sharma. The arrested accused, Prathamesh Yadav, has also named the present applicant as the mastermind behind the crime. The mobile phone of Prathamesh Yadav, which is now in police custody, contains multiple short videos and chat messages. It has been revealed that photographs of Ranju Sharma were sent from the mobile phone of the present applicant to Prathamesh Yadav.

12. There are eight criminal cases pending against Sunny Chauhan, one of which is a matrimonial case. The present applicant is representing Sunny Chauhan in all eight cases. This fact indicates that the applicant was aware of the identity of Abhishek Singh as the brother-in-law of Sunny Chauhan.

13. 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)

14. 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

15. As far as the judgment in *Siddharth v. State of Uttar Pradesh & Anr.* (supra), relied upon by the applicant, is concerned, in my view, the legal position laid down therein does not assist the present applicant in the facts and circumstances of this case.

16. However, in my view, after hearing both the learned APP and the counsel for the applicant, the investigation, insofar as the present applicant is concerned, is not yet complete. The learned APP has submitted that further investigation is required, for which custodial interrogation of the present applicant is necessary. Considering the overall facts involved in the present matter, as narrated in the FIR, and taking into account the fact that the Aadhaar card of Abhishek Singh was forged, the present applicant being the senior of Sunny Chauhan and the advocate representing him, as well as the statement of the arrested accused naming the present applicant as the mastermind behind the entire crime. There is a likelihood that, if the applicant is released on bail, he may pressurize the witnesses and tamper with the prosecution evidence. I am of the opinion that no case is made out for granting protection to the present applicant. Accordingly, **the anticipatory bail application stands rejected and is disposed.**

(RAJESH S. PATIL, J.)