

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1084 OF 2025

INAMULLA MATIBULLAH KHAN APPLICANT

VERSUS

STATE OF MAHARASHTRA RESPONDENT

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO. 1085 OF 2025

MOHD IMRAN MATIBULLAH KHAN

@ SALMAN APPLICANT

VERSUS

STATE OF MAHARASHTRA RESPONDENT

ALONGWITH

ANTICIPATORY BAIL APPLICATION NO. 1087 OF 2025

ABDUL HAKIM MATIBULLAH KHAN

@ BABLA APPLICANT

VERSUS

STATE OF MAHARASHTRA RESPONDENT

Adv. Nouman Shaikh for the Applicant.

Ms.Rutuja Ambekar, A.P.P. for the State in ABA/1084/2025.

Mr.Anand S. Shalgaonkar, A.P.P. for the State in ABA/1085/2025 & ABA/1087/2025.

Mr. Sopan Bhagwat Wadkar, P.S.I., Skinaka Police Station present.

CORAM : RAJESH S. PATIL, J.

DATE : 6th MAY, 2025

P.C. :-

These three applications are filed for pre-arrest bail under

Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 244/2025 dated 30th March, 2025 registered with Sakinaka Police Station for the offences punishable under Sections 109, 115(2), 189(2), 190, 191(2), 191(3), 351(2), 352 of the Bharatiya Nyaya Sanhita, 2023 and Section 37(1)(c) of the Maharashtra Police Act.

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

3. There were five accused persons. Two accused persons are already arrested and are behind bars. From the incident, as narrated in the FIR, it seems on 30th March, 2025 at 7:30 p.m., the informant Mr.Santosh Sukhram Prajapati was sitting with his mother, brother and friend on the platform of a shop. At that time, the applicant (Mr.Abdul Hakim Matibullah Khan @ Babla) who has six criminal antecedents against him, in order to celebrate festival, ignited string of fire-crackers. Some fire-crackers exploded but some have not. Therefore, he picked up remaining string of fire-crackers and threw it near the place where the informant (Mr.Santosh Sukhram Prajapati) and his family members were seated. Thereafter, the fire-crackers

exploded. Due to this act of the applicant, the informant and his family members questioned the applicant (Mr. Abdul Hakim Matibullah Khan @ Babla) as to why did he threw the fire-crackers on them. Pursuant to which there were abuses. The applicant Mr. Abdul Hakim Matibullah Khan @ Babla, became violent. He caught hold of the informant and his brother and thereafter according to the allegation made in the FIR, took an iron rod and gave blow of it on the head of the informant Mr. Santosh S. Prajapati. Due to the blow on the head, it caused bleeding. Similarly, the associates of the applicant also came to the spot with sticks in their hands which included the applicants Mr. Inamulla Matibullah Khan and Mr. Mohd Imran Matibullah Khan @ Salman, they started beating the informant and his brother by sticks. At that time, few people tried to intervene and resolve the issue. However, the applicant Mr. Inamulla Matibullah Khan threatened that if anybody interferes, he will cut them into pieces. The applicant was thereafter taken to the hospital for treatment. From the hospital itself, an FIR was registered.

4. The medical certificate produced before this Court being the impression of MR scan which shows – mild disproportionate prominence of the lateral and the third ventricles without

periventricular CSF seepage.

5. After hearing the learned counsel for the parties and after going through the documents, I am convinced that if the pre-arrest bail is granted to the present applicants, it will result into hampering the investigation process and there are chances that they would threaten the first informant and the witnesses. Injury is caused to the vital part of the body of the informant.

6. 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)

1 (2022) 17 SCC 391

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 FIR, the documents on record, considering the facts mentioned above and considering the view taken by the Supreme Court in above judgments, according to me, no case is made out to grant protection to the present applicants. **All three anticipatory bail applications stand rejected and are disposed of accordingly.**

[RAJESH S. PATIL, J.]