

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

Anticipatory Bail Application No.1098 of 2025

Shital Chandrakant Bawkar

Age: 51, Occ. Housewife,
R-233, Shivshakti Rahivasi Seva Sangh,
Near Residence Hotel, Jai Bhim Nagar,
Aarey Road, Mumbai

... Applicant

versus

1. The State of Maharashtra
[Powai Police Station
CR No.226 of 2025]

2. XYZ

... Respondents.

Mr Bharat Manghani, a/w. Ms Drushti Gala, for the applicant.

Mr SM Mangaonkar, APP, for respondent No.1/ State.

Mr Aditya V Darves, i/b. Ms Savita Mundra, for respondent
No.2/Original Complainant.

PI Pravin Pawar, a/w. PSI PS Sonawane, Powai Police Station,
Mumbai, is present.

Coram: R.N. Laddha, J.

Date: 25 July 2025.

P.C.:

This is an application for pre-arrest bail filed by the
applicant, who is apprehending arrest in connection with CR
No.226 of 2025, registered at Powai Police Station, Mumbai,

for offences punishable under Sections 64(1), 127(1), 127(2), 129 and 351(1) of the Bharatiya Nyaya Sanhita, 2023, and Sections 4, 6, 8, 12, 17 and 21 of the Protection of Children from Sexual Offences Act, 2012.

2. According to the prosecution's case, the incident occurred on 11 March 2025. On that day, acting on the applicant's request, the victim went to deliver a T-shirt to the co-accused, Pratik. Upon entering Pratik's room, he pulled her inside, forcibly locked the door, gagged her to prevent her from raising an alarm, and proceeded to assault her sexually. During the period of the assault, the victim's mother began searching for her daughter and inquired about her whereabouts. However, both the applicant and Pratik misled her, feigning ignorance. In an attempt to further conceal the crime, Pratik contacted his mother/ the applicant and requested her assistance in hiding the victim on the mezzanine floor of their house. Both the applicant and Pratik exerted pressure on the victim, attempting to coerce her into silence. Despite being held in confinement, the victim managed to attract the attention of a passerby, Bhoomi, by signalling through a window. Bhoomi subsequently informed the victim's mother. When the mother returned to confront the accused, they once again attempted to mislead her about the victim's location. Ultimately, the victim's father

arrived at the scene and conducted a thorough search of the premises. He was able to locate his daughter and rescue her. Following this, the victim disclosed the details of the incident, which led to the registration of the FIR.

3. The learned Counsel appearing on behalf of the applicant asserts the applicant's innocence and contends that the applicant has been falsely implicated in the crime and has no direct involvement in the alleged offence. The applicant is the mother of the co-accused, Pratik, who has already been granted regular bail by the competent Court. The applicant is the sister of the father of the victim girl. The only allegation levelled against the applicant is that she allegedly harboured or shielded the co-accused after the alleged incident. Beyond this assertion, there is no substantive material or independent evidence on record to demonstrate her complicity in the alleged offence. He further submits that there is no recovery or discovery to be effected from the applicant, and her custodial interrogation is neither warranted nor necessary in the facts and circumstances of the case. The investigation has already been completed and the charge sheet has been duly filed before the learned trial Court. The learned Counsel further submits that the applicant is a law-abiding citizen and undertakes to cooperate with the investigation, if any, and trial proceedings. The applicant is

ready and willing to abide by the terms and conditions that may be imposed by this Court.

4. The learned Additional Public Prosecutor representing respondent No.1/ State and the learned Counsel appearing on behalf of respondent No.2/ victim jointly oppose the applicant's request for pre-arrest bail and contend that the allegation against the applicant pertains to a grave and heinous offence, and as such do not merit the grant of pre-arrest bail.

5. The learned APP further submits that the applicant exploited her position of proximity and trust with the victim by instructing her to deliver a T-shirt to the co-accused, who thereafter sexually assaulted her. The applicant has played an active and deliberate role in the commission of the offence. She is accused not only of facilitating the interaction between the victim and the co-accused but also of unlawfully confining the victim and failing to ensure her safe return to her lawful guardian. Despite being aware of the heinous act being committed, the applicant chose to shield the co-accused from legal repercussions and pretended ignorance of the victim's desperate pleas for help. Furthermore, she is said to have continued assisting the co-accused in detaining the victim, aggravating her culpability.

6. The learned APP has invited the Court's attention to the victim's statement recorded under Section 183 of the Bharatiya Nagrik Suraksha Sanhita (BNSS), 2023, which contains a clear, detailed, and consistent narration of the events implicating the applicant. The charge sheet has already been submitted against the co-accused, but the investigation with respect to the applicant is still ongoing. The applicant is a neighbour and in close relation with the victim; the prosecution expresses apprehension that if granted the relief of anticipatory bail, she may misuse her liberty to tamper with material evidence or exert undue influence over key witnesses.

7. This Court has given anxious consideration to the rival contentions and perused the records.

8. It is a settled position in law that the power to grant anticipatory bail is extraordinary and must be used with caution and discretion, based on the specific facts of each case. Unlike regular bail, it cannot be treated as a general rule. Courts must avoid a one-size-fits-all approach, as granting such pre-arrest bail in serious cases may affect the investigation. These aspects are also highlighted in the decision of the Hon'ble Supreme Court in *Srikant Upadhyay & Ors. Vs State of Bihar & Anr.*, 2024 SCC OnLine SC 282.

9. After perusing the records, there emerges a *prima facie indication* that the applicant played an intentional and instrumental role in the commission of the offence. The applicant is alleged to have deliberately misled the minor victim by instructing her to approach the co-accused under a fabricated pretext. Subsequently, the co-accused sexually assaulted the victim. Furthermore, it is alleged that the applicant extended protection to the co-accused and continued to participate in the illegal confinement of the minor. These allegations, as reflected in the material on record, are both grave and egregious, suggesting not only complicity but active facilitation in the perpetration of a serious sexual offence. It further *prima facie* appeared that the applicant exploited her position of proximity and trust with the minor victim, thereby enabling access to the co-accused, who went on to sexually assault the victim.

10. The statement of the victim recorded under Section 183 of the BNSS contains a detailed, consistent, and credible narration of events that directly implicates the applicant. While the charge sheet has been filed against the co-accused, the investigation *qua* the applicant is still ongoing. Given the applicant's close relationship with the victim and the proximity of residence, there exists a real and tangible apprehension that

if released on anticipatory bail, the applicant may tamper with evidence or influence key witnesses. The applicant has not demonstrated any special circumstances that would warrant the exercise of discretion in her favour for the grant of pre-arrest bail in a case involving such serious allegations.

11. In light of the foregoing, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the application stands rejected.

[R.N. Laddha, J.]