

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1331 OF 2025

SARFARAZ JABBAR SHAIKH

..... APPLICANT

VERSUS

STATE OF MAHARASHTRA

..... RESPONDENT

Adv. Sushant Prabhune for the Applicant.

Mr. Anand S. Shalgaonkar, A.P.P. for the State.

Mr. Devendra Khade, Police Havaldar, Baramati City Police Station.

CORAM : RAJESH S. PATIL, J.

DATE : 8th MAY, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 161/2025 dated 10th March, 2025 registered with Manmad Police Station, for the offences punishable under Sections 109, 132, 121(1), 121(2), 281, 291, 325, 324(4), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and offences under Section 11(d) of Prevention of Cruelty to Animal Act, and Section 5-A of the Maharashtra Animal Prevention Act.

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

3. The present applicant is accused no.4. The accused no.1 has been arrested and as far as the present applicant is concerned, it is the case of the prosecution that he is the mastermind behind the entire incident. There are in all **17** antecedents against the present applicant and the application for externment is pending in which he is avoiding to appear upon notice.

4. It is prosecution's case that the present applicant was in touch with the accused no.1 who is driver of the pick up van. On the day of the incident, the said pick up van was intentionally dashing the police vehicle from back side in order to dodge the police from stopping and checking the vehicles. The pick up van was filled with cattles and the present applicant was travelling in back up vehicle with his two associates and was constantly guiding the accused no.2 as to how to avoid the police and carry the cattles for slaughtering. It is submitted by the Investigating Officer that the present applicant has a long history of criminal antecedents. He was carrying the cattles in the pick up van for the purpose of slaughtering which is prohibited in the State of Maharashtra.

5. It is further case of the prosecution that the present applicant has several mobile phones. Therefore, it has become difficult to track

the present applicant. The police have also recorded the statement of the co-accused who has specifically named the present applicant as a mastermind. Because of the constant dashing by the pick up van, the police van ultimately dashed to the pole and overturned. Similarly, Mahendra pick up van was also overturned which was carrying the cattles.

6. It seems that the present applicant is a habitual criminal who is not afraid with the police machinery. Therefore, for the purpose of investigation, the interrogation of the present applicant would be necessary.

7. 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

1 (2022) 17 SCC 391

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)

8. 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)

9. Considering the law laid down by the Supreme Court and the facts narrated in above paragraphs, no case is made out for grant of anticipatory bail application. Hence, the **present anticipatory bail application stands rejected.**

[RAJESH S. PATIL, J.]

2 AIR OnLine 1997 SC 797