

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

Anticipatory Bail Application No.2120 of 2025

Jagdish Shamji Patel
Aged 62 years, Occ. Business
Residing at 301, Vinayak Sadan
MG Road, Opposite Vaishali Bus Stop,
Kandivali (W),
Mumbai - 400 067

... Applicant

versus

The State of Maharashtra
(at the instance of Malad Police Station
in C.R. No.671/2022)

... Respondent

Mr Vaibhav Sugdhare, a/w. Mr Aniesh Jadhav and Mr Tatsat
Gor, i/b. Mr Mahadji Phalke, for the applicant.
Mr MG Patil, APP, for the respondent/ State.
IO Senior PI Gajbhiye, Traffic (Transport Department), Malad
Police Station, is present.

**Coram: R.N. Laddha, J.
Date: 30 July 2025.**

P.C.:

By this successive application, the applicant seeks pre-arrest bail in connection with CR No.671 of 2022, registered at Malad Police Station, Mumbai, for offences punishable under Sections 288 and 304 read with 34 of the Indian Penal Code.

2. The prosecution alleges that due to the negligence of the applicant and co-accused, the fall of a concrete slab from the under-construction structure took the life of the victim, Rajkumar Soni, who was working in the informant's shop.

3. Mr Vaibhav Sugdhare, the learned Counsel appearing on behalf of the applicant, asserts the applicant's innocence and submits that the applicant has been falsely implicated in the crime. He contends that the applicant's firm, M/s SK Patel and Sons, was appointed by Karmvir Intelligent Housing Pvt. Ltd. in February 2016 for the "Jalan Nivas" project, with their contract ending on 29 July 2018 due to time lapse. The developer's financial issues halted the project, and irregular payments caused the applicant's firm to stop work. After two years, the developer hired a new labour contractor without notifying the applicant. The applicant is not liable for any issues that arose after their contract expired, as the developer and new contractor are responsible for the site and any incidents due to negligence. Mr Sugdhare further submits that the co-accused have been released on bail, the investigation is complete, and a charge sheet has been filed. The applicant is ready to abide by any conditions imposed by this Court if granted pre-arrest bail.

4. Mr MG Patil, the learned Additional Public Prosecutor representing the respondent/ State, opposes the applicant's request for pre-arrest bail and contends that the offence is of a serious nature. He submits that the applicant was the main contractor, who had undertaken the construction works, and had a duty to take necessary precautions and safety measures. Although a charge sheet has been filed, the investigation against the applicant is ongoing. The learned APP submits that since the registration of the crime, the applicant has not made himself available for investigation. If granted pre-arrest bail, he may tamper with the evidence and influence witnesses.

5. This Court has considered the rival submissions canvassed across the Bar and perused the records.

6. It is a well-established legal principle that filing a successive application for anticipatory bail is not prohibited. However, for such an application to succeed, the accused must demonstrate that there has been a significant change in the circumstances. A mere superficial justification for the change would not suffice to warrant the approval of a subsequent application for pre-arrest bail. Further, the request can be denied summarily if the grounds presented in the previous application are reiterated in the subsequent anticipatory bail

application. A profitable reference in this regard can be made to (i) *GR Ananda Babu Vs State of Tamil Nadu and Anr.*, (2021) 16 SCC 725; (ii) *Rani Dudeja Vs State of Haryana*, (2017) 13 SCC 555; (iii) *Bhisham Singh Vs State of Haryana*, 2024 (3) Criminal CC 490; (iv) *Imratlal Vishwakarma and Ors. Vs State of MP*, 1997 (1) Crimes 289.

7. It is also a settled position in law that granting pre-arrest bail is an extraordinary power. While regular bail is generally considered the norm, the same principle does not apply to anticipatory bail. Considering each case's specific circumstances, the Court must exercise careful and prudent discretion when deciding whether to grant pre-arrest bail. There is no straitjacket formula. Caution is necessary, as granting protection in serious cases could hinder investigation or lead to a miscarriage of justice by allowing tampering with evidence. These aspects are highlighted in *Srikant Upadhyay Vs State of Bihar*, 2024 SCC OnLine SC 282.

8. From a bare reading of the records, it transpires that Karmvir Intelligent Housing Pvt Ltd entered into a development agreement with M/s Soni & Soni concerning the redevelopment of their property. This agreement authorised the developer to engage a contractor for the redevelopment

project. Consequently, the developer contracted with M/s SK Patel & Sons, the applicant's firm, by way of an agreement dated 15 February 2016. Under the terms of this agreement, the contractor, the applicant, was obliged to implement necessary precautions and safety measures throughout the course of the development. There is material available on record to demonstrate that, in the incident, an innocent person lost his life due to the applicant's alleged negligence.

9. That apart, the records reveal that on 24 July 2023, the applicant preferred an Anticipatory Bail Application bearing No.2094 of 2023 before this Court seeking pre-arrest bail in connection with the aforementioned CR. After this Court expressed its disinclination to grant relief, the applicant withdrew his request. Following this, on 28 July 2025, the applicant once again approached this Court by filing the present application seeking anticipatory bail. Upon a bare reading of the application, it transpires that this application does not present any new substantial grounds following the withdrawal of the earlier anticipatory bail application that would justify this Court's indulgence in granting pre-arrest bail. The bare assertion that a charge sheet has been filed and the co-accused have been released on regular bail cannot be the sole grounds of change in circumstances, especially when, since the

crime was reported on 19 May 2022, the applicant has remained untraceable and has failed to extend any cooperation to the investigating agency, thereby impeding the progress of the investigation. The sequence of events reflects not only a lack of diligence but also an apparent unwillingness on the part of the applicant to submit himself to the legal process. Such conduct demonstrates a deliberate attempt to evade the due process of law and undermines the applicant's claim for any discretionary relief. Although a charge sheet has been filed against the co-accused, the investigation against the applicant is ongoing. Releasing him on pre-arrest bail at this juncture would hinder the course of an effective investigation.

10. Given the seriousness of the offence, the ongoing nature of the investigation, and the applicant's involvement in the crime, along with the fact that, for a considerable period, the applicant has concealed himself from the investigating agency, this Court is not inclined to exercise its discretion in favour of the applicant. As a result, the present application is rejected.

(R.N. Laddha, J.)