

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2183 OF 2025

Uddhav Gynba Jadhav	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Dr. Uday Warunjikar with Mr. Praful Abhiman Patil,
Mr. Prasad Nagargoje and Pranjal Jadhav for the
applicant.

Mr. Sagar R. Agarkar, APP for the respondent-State.

Mr. Dipak Bhoi, API, Pali Police Station, Raigad, is
present.

CORAM : AMIT BORKAR, J.

RESERVED ON : SEPTEMBER 23, 2025

PRONOUNCED ON : SEPTEMBER 25, 2025

P.C.:

1. The applicant, apprehending arrest in connection with Crime Register No. 66 of 2025 registered with Pali Police Station for offences punishable under Sections 108 and 3(5) of the Bhartiya Nyaya Sanhita, 2023, has approached this Court seeking pre-arrest bail under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023.

2. As per the prosecution, the complainant is the father of the deceased. He resides with his wife, son Datta Thorat (deceased),

daughter-in-law, grandchildren, and his daughter along with her two children. The wife of the deceased and his granddaughter Swara had been staying and working at the farmhouse of the applicant from April 2024, doing agricultural work. It is alleged that under the guise of employment, the applicant started giving liquor to the deceased every night before dinner and made him sleep in an outside shed, while his wife stayed inside the house as per applicant's instructions. Over time, the deceased began to feel neglected as his wife avoided communication with him and disregarded his concerns. Whenever he tried to speak, she ignored him or insulted him. He felt excluded from family matters and was humiliated before others. The applicant allegedly always supported the wife, thereby further isolating the deceased.

3. On 30 August 2024, the situation worsened when the deceased, unable to bear the atmosphere, requested his wife to return with him to the native village. Instead of cooperating, she abused him verbally, quarreled, and even attempted to assault him. The applicant then took both of them to the local police station. However, no complaint was registered. Outside the police station, the applicant advised the deceased to return alone to his village and not escalate the matter. The deceased wanted his wife and daughter to accompany him, but the wife refused outright, abused him, and stayed back with the applicant at the farmhouse. A few days later, the applicant called the deceased back to the farmhouse, stating that he needed help with household work and had hired another couple. The deceased returned but the quarrels continued. The wife's behavior remained rude and insulting. He

was not allowed to drop his daughter to school or spend affectionate time with her. The applicant again sided with the wife, ignoring the emotional distress of the deceased. The deceased narrated his grievances to his father, the complainant, saying that he was facing unbearable humiliation and mental torture. Even then, the applicant called the complainant alleging that the deceased suspected an illicit relationship between him and the wife, and insisted that the deceased be counselled. The complainant requested the applicant to send the deceased, his wife, and daughter back to the village, but this was not done.

4. On 8 October 2024, at around 6.00 p.m., the applicant telephoned the complainant and stated that the deceased was behaving abnormally. The complainant spoke to his son, who again said that his wife was refusing to return to the village and the applicant was not supporting him. The wife told the complainant that she had packed her bags to return. The complainant then asked the applicant to allow them to spend the night there and send them the next morning. Around 10.00 p.m., the applicant again telephoned the complainant, informing him that the deceased had consumed poison, his condition was serious, and asked him to come to Government Hospital, Alibag. Since the complainant could not go due to distance, he sent his grandson Jay Thorat and relative Nilesh Galphade to Alibag Hospital.

5. On 9 October 2024, at about 2.15 p.m., Jay informed the complainant that the deceased had passed away. On 10 October 2024, at around 6.30 a.m., Jay, Nilesh, wife of the deceased, and daughter Swara brought the body to the village and funeral took

place the same morning. Due to grief, no questions were raised against the wife or Swara at that time.

6. In October 2024, during mourning rituals, the complainant's daughter Shridevi @ Pinky Thorat visited the family. At that time, the deceased's daughter Swara was crying and refused to go near her mother. When comforted, she made shocking disclosures. She stated that the applicant used to give liquor to her father and make him sleep in the shed, while her mother made her sleep in the hall and then went into the applicant's room. Swara further stated that her mother humiliated her father, abused him by calling him "kutrya" (dog), and refused to return to the village despite his requests.

7. Swara also narrated the events of 8 October 2024. Around 4.00 p.m., her father brought her back from school. He again asked her mother to return to the village. She refused and quarreled. The mother then pushed Swara into a room, locked it from outside, and through the window Swara saw the applicant holding her father's hands while her mother held a pesticide bottle. Shortly after, the mother opened the door and said they had to go to hospital. When Swara came out, she saw her father unconscious. All of them took him to Pali Hospital, where initial treatment was given, and then to Alibag Hospital, where he died. Based on these allegations, the report came to be lodged.

8. Learned counsel for the applicant submitted that the FIR was lodged on 27 June 2025, whereas the statement of the child witness was recorded on 16 October 2024. He argued that there

are variations in the child's statements. The version in the FIR, the statement under Section 161, and the statement before the Magistrate under Section 183 of BNSS differ. The post-mortem report also shows no injury. He submitted that the investigation is nearly complete and custodial interrogation is not necessary. Hence, he prayed for grant of anticipatory bail.

9. On the other hand, Mr. Agarkar, learned APP, opposed the application. He submitted that the prosecution has alleged offence under Section 103 of BNS against the applicant. He argued that the manner of incident described in the FIR, statement under Section 161, and statement under Section 183 is consistent. The child witness has stated that her father came to the farmhouse at 4.00 p.m. with the applicant, insisted that her mother accompany him, and thereafter she was locked in a room. She saw her father being forced to drink pesticide. He submitted that in such serious allegations, the applicant is not entitled to anticipatory bail.

10. I have considered the submissions of both sides and perused the material placed on record. The allegations in the FIR are undoubtedly serious in nature. However, certain aspects require close scrutiny. The FIR was lodged on 27 June 2025, much after the incident of October 2024. The statement of the child witness was recorded earlier in October 2024. The defence has pointed out variations between the FIR, the statement under Section 161, and the statement recorded under Section 183 of BNSS. These aspects will require appreciation of evidence during trial.

11. The post-mortem report does not show any external injury on the deceased. The investigation is now substantially completed. The applicant has cooperated with the process and custodial interrogation does not appear to be necessary at this stage.

12. At this stage, it is necessary to consider the effect of addition of Section 103 of the BNS on the maintainability of this anticipatory bail application. The applicant has approached this Court seeking protection in respect of offences under Sections 108 and 3(5) of the BNS. The prosecution now presses into service Section 103 of the BNS. Section 103 of the BNS deals with the offence of culpable homicide amounting to murder, which is a serious and grave offence carrying severe punishment. The legal position is well settled that when a more serious offence is added during the course of investigation, the earlier order of anticipatory bail does not automatically extend to the newly added offence. The accused is required to apply afresh for anticipatory bail in respect of the added offence, which the Court must consider independently on its own merits. The Supreme Court has held in similar situations that once a graver offence is introduced, the Court must balance the liberty of the accused with the interest of investigation. While anticipatory bail granted for the earlier offences may continue to protect the applicant in respect of those charges, it will not extend to the subsequently added graver charge unless specifically considered and granted. In the present case, the allegations under Section 103 of the BNS relate to the alleged administration of poison leading to the death of the deceased. These are distinct in nature and require independent

consideration. The present application being confined to Sections 108 and 3(5) of the BNS, the protection granted herein cannot be stretched to cover the offence under Section 103. Therefore, while the applicant deserves protection in respect of the offences originally registered, liberty is expressly reserved to him to apply for anticipatory bail under Section 103 of the BNS. Such application, if filed, shall be decided independently, uninfluenced by this order.

13. Considering the above, I am of the view that the applicant deserves protection under Section 482 of BNSS for the present offences.

14. Hence, following order is passed:

- a) The applicant is allowed;
- b) In the event of arrest in connection with Crime Register No. 66 of 2025 registered with Pali Police Station for offences punishable under Sections 108 and 3(5) of the Bhartiya Nyaya Sanhita, 2023, the applicant shall be released on bail on executing a personal bond of Rs. 25,000 with one or two sureties of like amount.
- c) The applicant shall attend the Investigating Officer as and when called and shall cooperate with the investigation.
- d) The applicant shall not tamper with evidence or influence witnesses.
- e) Liberty is reserved to the applicant to apply for pre-arrest bail in respect of the alleged offence under Section

103 of the Bhartiya Nyaya Sanhita, 2023. If such an application is filed, it shall be considered on its own merits in accordance with law.

15. The application for anticipatory bail is allowed and disposed of.

(AMIT BORKAR, J.)