

AGK

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

ANTICIPATORY BAIL APPLICATION NO.2253 OF 2025

1. Hetan Ram Gangwani,

Aged 37 years, Occupation: Business,
Kanchan Mirg Building, Plot No.75,
1st Floor, Simplified CHS Ltd.,
T.V. Chidambaran Road, Sion,
Mumbai

2. Yash Ram Gangwani,

Aged 38 years, Occupation: Business,
Lilian Apartment, Dr. Ambedkar Road,
Opposite Lok Complex,
Bandra (West), Mumbai

... Applicants

V/s.

The State of Maharashtra,

through Uran Police Station.

... Respondent

ATUL
GANESH
KULKARNI

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Mr. P.A. Pol with Mr. Sharad Suryawanshi and Mr.
Ranjit Hatkar i/by Pol Legal Juris for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for respondent
No.1-State.

CORAM : AMIT BORKAR, J.

RESERVED ON SEPTEMBER 25, 2025

PRONOUNCED ON : SEPTEMBER 30, 2025

JUDGMENT:

1. The applicants, apprehending arrest in connection with
Crime Register No.346 of 2024 registered with Uran Police Station,

District Raigad, for the offence punishable under Sections 287, 125, 3(5) of the Bharatiya Nyaya Sanhita, 2023; Sections 3 and 7 of the Essential Commodities Act; Sections 3, 4, 6, 23(a) of the Petroleum Act; and Section 4 of the Inflammable Substances Act, has approached this Court seeking anticipatory bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

2. According to prosecution, the informant, an Assistant Police Inspector, along with police staff, visited a customs bonded warehouse on 12 July 2024 at about 16.30 hours. They noticed eight tankers parked there. No satisfactory information regarding those tankers was available, so they were kept on hold.

3. On 13 July 2024, accused No.3 – Rakesh More, visited the police station with certain papers. He produced documents showing that one Sole Bloom Pvt. Ltd. had imported “Process Oil–40”. During voyage, by a high seas sale agreement, M/s. Siddhidhata Trading Company purchased the goods. At the port of delivery (J.N.P.T. Port), M/s. Naksh Trading Company further purchased them.

4. On inspection, the informant found that in two tankers hydrocarbon oil was present, and in the remaining six tankers Process Oil–40 was stored. Samples were drawn for testing. The analysis revealed that the oil was adulterated diesel fuel. Therefore, the tankers and the goods loaded in them were seized.

5. The Police Station Officer, Uran, registered Crime No. 346 of 2024 dated 12 October 2024 for offences under Sections 287, 125, 3(5) of the Bharatiya Nyaya Sanhita, 2023; Sections 3 and 7 of the

Essential Commodities Act; Sections 3, 4, 6, 23(a) of the Petroleum Act; and Section 4 of the Inflammable Substances Act against the present applicant/accused and others.

6. Mr. P. A. Pol, learned advocate for the applicants, submitted that As per circular dated 12 November 2021, neither the API nor customs officers are authorised under the Petroleum Order, 1999, Order 2000, Order 2005, or Order 1987. They have not been appointed by Government either by special or general order. The FIR itself shows that the API illegally detained goods on 12 July 2024 under police diary No. 21 of 2024 because hazardous chemicals were shifted from containers to tankers, which is not permissible in a customs bonded warehouse. There is no “seizure” as defined under Section 3(j) of the Essential Commodities Act, 1955. There was no reason to believe that a contravention of any order was committed, being committed, or about to be committed, as defined under Section 3(j)(i) of the Essential Commodities Act, 1955. The FIR dated 12 October 2024, registered under diary No. 31 of 2024, and the investigation carried out by the API, are illegal. The FIR is based on a customs test report, which is illegal in view of clause 2 of the circular dated 12 November 2021, as the API and customs officers are not authorised under the Petroleum Orders mentioned above, nor was due procedure under Section 100 of the CrPC or Petroleum Rules, 2002 followed. The FIR is further illegal in view of clause 3 of the circular dated 12 November 2021, since the lab report relied upon is not from an NABL-accredited laboratory. The customs test report also does not satisfy the Table-I requirements for automotive diesel fuel is IS

1460:2017, as all 21 mandatory tests were not conducted.

7. Even otherwise, the said report does not confirm that the sample meets IS 1460:2017 standards for automotive diesel fuel. The report also does not define or explain what constitutes “adulterated diesel fuel.” A second examination report dated 16 December 2024 from the Directorate of Forensic Science Laboratories confirms that the oil is petroleum hydrocarbon, which supports the applicant’s case. “Process Oil” or hydrocarbon is not a notified commodity under Section 3 of the Essential Commodities Act, 1955. On 12 July 2024, the prosecution has failed to make out that the petroleum was sold for automobile use as fuel. Hence, the circular dated 12 November 2021 is not applicable. The prosecution’s specific case as on 12 July 2024 was only that the oil was detained on information of illegal transportation of chemicals.

8. In support of his submissions he relied on judgments in the case of *Abhay s/o Anup Rathi v. State of Maharashtra*, 2023(4) Bom. C.R. (Cri) 218; *Avtar Singh and another v. State of Punjab*, 2023 SCC Online 319 and Criminal Writ Petition No. 1839 of 2013. Therefore, it is prayed that this application for anticipatory bail be allowed on appropriate terms and conditions.

9. Per contra, Ms. Mahahlaxmi Ganapatty, learned APP, submitted that three bank accounts were examined. Though these accounts stand in different names and entities, the same email ID, namely yashrg1986@gmail.com, belonging to accused No.2, Yash Gangwani, is linked to all of them. If Naksh Trading Company, claimed to be owned by accused No.3, Rakesh More, was an

independent entity, there is no satisfactory explanation why the same email ID is linked to bank accounts of Sole Bloom Pvt. Ltd., Siddhidhata Trading Company, and Naksh Trading Company, except that the same Chartered Accountant handled them. The use of one common email ID indicates that accused No.2 was managing all three accounts. Notifications of debit and credit transactions are received on the registered email ID. Thus, accused No.2 had effective control over the transactions of Naksh Trading Company as well. The sale of goods from one company to another was a camouflage. In fact, the same person carried out all transactions. Accused No.3 was merely a front for the present applicant. Investigation further revealed that the companies shown as purchasers in Rasayani industrial area were fictitious. The laboratory report, at this stage, shows adulterated diesel. Though six tankers were released as their contents were not adulterated, two tankers were found to contain adulterated petroleum product.

10. The argument that the FIR is illegal because it was lodged by an API is unsustainable. The FIR was lodged by the API under the instructions of the Senior Police Inspector, and the investigation is conducted by an officer of the rank of Police Inspector. In light of the applicant's conduct, the common handling of accounts, and the prima facie material showing adulterated diesel, the applicants does not deserve pre-arrest bail. Hence, according to her, the application for anticipatory bail deserves to be rejected.

11. I have considered the rival submissions and perused the record. The applicants have raised serious objections regarding the authority of the API, validity of seizure, and admissibility of the

test report. These issues, however, go to the root of the matter and require detailed trial. At this stage, the Court has to consider whether custodial interrogation is necessary and whether the applicants have made out a case for protection under Section 438 CrPC.

12. The material on record clearly brings out that three different companies, namely Sole Bloom Pvt. Ltd., Siddhidhata Trading Company, and Naksh Trading Company, though shown as independent entities, are all linked with one common email ID belonging to accused No.2, Yash Gangwani. This circumstance assumes importance. Ordinarily, when three companies claim to operate as separate legal entities, their banking operations are expected to be maintained independently. If all three accounts are connected with the same email ID, the natural inference is that one person has access to and control over the financial dealings of all these concerns.

13. The explanation tendered by the applicants that the same Chartered Accountant handled these accounts does not inspire confidence. The role of a Chartered Accountant is limited to auditing and filing statutory returns. The linking of a personal email ID with bank accounts goes beyond such professional functions. It shows that the notifications of debit and credit entries in all three accounts were being received by the same person. This enabled him to monitor and direct the course of transactions across all companies.

14. Such an arrangement cannot be treated as a matter of coincidence. Prima facie, it suggests a deliberate design to create a chain of paper transactions under different company names, while in fact, the entire control rested with one individual. This also raises a serious doubt about the genuineness of the claim that M/s. Naksh Trading Company was an independent purchaser of the goods. On the contrary, the material indicates that the so-called sale from one company to another was only a camouflage.

15. When the surrounding circumstances are viewed together, the only reasonable inference is that the applicants and co-accused orchestrated these layered transactions with a common object, namely to divert imported petroleum products in a manner so as to conceal their true nature and to deal with adulterated fuel under the guise of process oil.

16. The laboratory report placed on record indicates that the substance seized from two of the tankers was adulterated diesel. It is true that the evidentiary value of this report will be tested during the course of trial when both sides will have an opportunity to cross-examine the expert and to produce their own evidence. However, at the stage of considering an application for anticipatory bail, the Court is not expected to hold a mini-trial or to decide conclusively whether the report is flawless.

17. What is material is that an authorised laboratory has, upon examination of the samples, found the substance to be adulterated. This finding, though subject to further scrutiny, constitutes prima facie material pointing towards commission of the offence alleged.

The submission of the applicants that the report is defective as it does not conduct all 21 tests under IS 1460:2017 or that it is not from an NABL-accredited laboratory, is a defence which may be raised at the time of trial. At this stage, such objections cannot obliterate the fact that the report indicates adulteration.

18. Therefore, while the final evidentiary value of the laboratory report is open to challenge during trial, at this interlocutory stage it cannot be brushed aside or ignored. It stands as a *prima facie* circumstance against the applicant.

19. The investigation in the present case is still at a crucial stage. The police are in the process of collecting further material with respect to the manner in which the petroleum products were imported, stored and allegedly diverted. Interference at this stage by granting protection from arrest may hamper the free and fair course of investigation.

20. The record further shows that the applicants attempted to give colour of legitimacy to the transactions by routing the imported goods through different entities. On a closer look, these entities were found linked by a common thread, thereby indicating that the transactions were not independent but were layered only to create an impression of genuineness. The conduct of the applicants in presenting such paper transactions instead of offering a clear and transparent explanation raises grave suspicion about his involvement in the offence.

21. The role of accused No.1, who is the Director of Sole Bloom Pvt. Ltd., appears to be on the same footing as that of accused

No.2, the Director of Siddhidhata Trading Company. Both accused Nos.1 and 2 are real brothers. The material collected during investigation indicates that they acted in close coordination.

22. Accused No.1, being the importer of the goods along with accused No.2, cannot escape responsibility by shifting the blame upon accused No.3. The transactions reveal that accused No.3, Rakesh More, was only used as a front to give colour of legitimacy to the subsequent sale and purchase of the imported goods. The manner in which accused Nos.1 and 2 involved accused No.3 suggests that their real intention was to divert the petroleum products by creating layers of transactions so as to conceal the true nature of dealings.

23. Such conduct, prima facie, shows that accused Nos.1 and 2 were not only importers but also the persons who designed and controlled the entire scheme. They used accused No.3 as a mere name-lender or front to distance themselves from direct accountability. The principle of lifting the corporate veil can be applied in such cases where companies are used as instruments for fraudulent activities. The inter se relationship of the accused, their common interest in the business, and the linking of financial transactions through one email ID all indicate that accused Nos.1 and 2 acted hand in glove and shared equal responsibility in the alleged offence.

24. In such circumstances, where the investigation is still underway, where serious economic offences are alleged, and where the conduct of the applicants itself appears doubtful, this Court

cannot overlook the possibility that custodial interrogation may be necessary to unearth the larger conspiracy and to trace the ultimate beneficiaries.

25. The contentions raised by the applicants regarding want of authority of the Assistant Police Inspector, the validity of the seizure, and the admissibility of the laboratory report, are all matters which go to the root of the prosecution case. However, these issues cannot be adjudicated at the stage of considering an application for anticipatory bail. They require appreciation of oral and documentary evidence, which is the exclusive domain of the trial court.

26. At the stage of considering pre-arrest bail, the Court is only expected to see whether there is a prima facie case, the gravity of the allegations, and the necessity of custodial interrogation. The defence raised by the applicant, even if plausible, cannot be tested by way of a detailed inquiry at this stage, because that would amount to conducting a mini-trial. The law is settled that questions relating to admissibility of evidence, legality of search and seizure, or procedural irregularities are matters of trial.

27. It is also well recognised that anticipatory bail is an extraordinary relief to be granted only when the Court finds that the accusations are manifestly false or motivated. In the present case, the allegations are supported by documentary material and laboratory findings which cannot be brushed aside. Therefore, the defences raised by the applicants cannot be accepted as grounds for grant of anticipatory bail. They remain open to be urged before

the trial court at the appropriate stage.

28. The offences alleged in the present case cannot be treated as disputes of a private or individual nature between two parties. They touch upon matters which affect the public at large. The allegations relate to the import, diversion, and circulation of petroleum products. Petroleum and its by-products form the backbone of transport, industry, and daily life. Any illegality in their handling or distribution has a direct impact on public safety, on the economy of the nation, and on the lawful revenue of the State. When adulterated fuel is circulated in the market, it not only damages vehicles and machinery but in certain situations may also endanger human life due to the risks of fire, explosion, or malfunction of critical systems. The impact is thus widespread and serious. Such offences also erode the trust of citizens in regulatory systems which are meant to ensure purity, safety, and fair distribution of essential commodities. If the public starts believing that adulterated fuel is easily pushed into the market, it reflects a breakdown of law and order in this important sector.

29. It must be remembered that offences falling under the Essential Commodities Act, the Petroleum Act, and related legislations are enacted with the object of protecting public interest. The circulation of adulterated fuel in the market directly endangers the safety of consumers and simultaneously causes financial loss to the State exchequer by way of evasion of lawful duties and taxes. The larger public interest is therefore clearly involved.

30. At the stage of considering whether custodial interrogation of the accused is warranted, the Court cannot close its eyes to these aspects. Any laboratory report or material which indicates adulteration, even if it is preliminary, assumes importance. Such findings cannot be brushed aside as mere suspicion. They form a relevant piece of material which must be taken into account to assess the seriousness of the allegations and the need for thorough investigation. Custodial interrogation becomes necessary in such cases to unearth the chain of supply, to identify other persons involved in the racket, and to safeguard the larger public interest.

31. It is well settled that anticipatory bail is an extraordinary remedy. It is not meant to shield an accused involved in serious economic offences, particularly when the investigation is at a nascent stage. The investigating agency must be allowed to conduct a free and fair probe, which often requires custodial interrogation to trace the larger conspiracy, unearth the money trail, and identify the actual beneficiaries. If the applicants are granted pre-arrest bail at this stage, it may frustrate the object of investigation.

32. The conduct of the applicants in layering transactions through multiple entities, all controlled through one common email ID, coupled with the laboratory finding of adulteration, shows that the accusations cannot be treated as casual or unfounded. The Supreme Court has time and again emphasised that economic offences committed with calculated design stand on a distinct footing and must be viewed seriously.

33. Prima facie material shows the involvement of the applicants in the offence. Therefore, considering the seriousness of the allegations, their impact on society at large, and the ongoing investigation, the applicants are not entitled to the extraordinary protection of anticipatory bail.

34. The Anticipatory Bail Application is rejected.

(AMIT BORKAR, J.)