

AGK

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

ANTICIPATORY BAIL APPLICATION NO.3000 OF 2025

Nishant Rajkumar Chauhan	... Applicant
V/s.	
State of Maharashtra & Anr.	... Respondents

Mr. Vijay Jha i/by Law Juris for the applicant

Mrs. Shilpa G. Talhar, APP for respondent No.1-State.

Ms. Sarika Khairnar, PI, Amboli Police Station, is present.

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CORAM : AMIT BORKAR, J.

DATED : DECEMBER 18, 2025

P.C.:

1. The applicant, apprehending arrest in connection with Crime Register No.741 of 2025 registered with Amboli Police Station, for offences punishable under Sections 376(1), 354(C), 509, 506 read with 34 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. According to the prosecution, the informant aged 29 years was staying as paying guest at Aadarsh Nagar, Andheri (West). The applicant was residing in same flat along with his three other friends. The applicant was good friend of the victim. On 28 January 2023, the informant and applicant at about 10.00 p.m. had liquor, and thereafter the applicant undressed the informant and had sexual intercourse, the applicant had taken video of their

intimate scene. The informant asked the applicant to delete the photographs, but he refused, and thereafter by giving threats of uploading the obscene photographs on social media, he was forcing the informant to have chat with his friends with indecent talking. Hence, the informant lodged the complaint.

3. Learned Advocate for the applicant submitted that the applicant and informant had relations of foster brother and sister. The informant tied rakhi to the applicant. She has falsely implicated him in this case. The informant and victim have completed Latin course together and well known to each other. They are the siblings. The applicant has been implicated on false ground alleging that the applicant has committed sexual intercourse with the informant. He pointed out that on previous date of incident, i.e., 28 January 2023 the applicant was traveling from Mumbai to Vadodara and he was not present on the spot of alleged incident. He further pointed out that in the WhatsApp chats exchanged between the applicant and informant, she has messaged the applicant about 6.16 p.m. that have you boarded the train. This indicates applicant's absence on the date of alleged incident at Andheri, Mumbai. He submits alleged incident is reported after two and half years.

4. Per contra, learned APP opposed the application contending that the applicant has committed serious offence. Applicant has engaged in similar offence. He has been indulged in similar type of offences. Therefore, the applicant is not entitled for the reliefs claimed. She, therefore, prayed for rejecting the application.

5. The prosecution version alleges a serious offence. The Court is conscious of the gravity attached to such allegations. At the same time, gravity alone does not decide the issue of bail. The Court must examine the material placed on record and test it on settled principles governing pre arrest bail.

6. The incident is alleged to have occurred on 28 January 2023. The complaint has been lodged after a lapse of about two and a half years. Delay by itself may not be fatal. However, such delay assumes significance when the Court examines the conduct of parties and the surrounding circumstances. The prosecution has not placed any material to explain this prolonged silence. This aspect weighs with the Court at the stage of bail.

7. The applicant has specifically contended that he was not present at the place of occurrence on the relevant date. He asserts that he was travelling from Mumbai to Vadodara. In support, reliance is placed on WhatsApp messages exchanged between the applicant and the informant, wherein the informant enquired at 6.16 p.m. whether the applicant had boarded the train. This material prima facie supports the plea of absence. At this stage, the Court is not expected to conduct a roving enquiry. Even so, the material creates a reasonable doubt which cannot be ignored.

8. The applicant has also asserted that the relationship between him and the informant was akin to that of brother and sister. It is stated that the informant had tied rakhi to the applicant. Whether this assertion ultimately stands proved is a matter for trial. However, the existence of prior cordial relations and familiarity

between the parties is not disputed. This aspect lends relevance to the defence plea that the allegations may not be as straightforward as projected.

9. The prosecution contends that the applicant has committed a serious offence and has indulged in similar conduct earlier. However, no antecedents or prior cases have been placed on record to substantiate this submission. A mere assertion without supporting material cannot be the basis to deny liberty. Bail jurisprudence does not permit denial on conjecture.

10. The investigation is at a nascent stage. Custodial interrogation does not appear necessary in the facts of the case. The allegations largely rest on documentary and electronic material which can be secured without arrest. The applicant has expressed willingness to cooperate with the investigation and to abide by conditions.

11. Pre arrest bail is not to be refused as a matter of course. Personal liberty is a valuable right. Arrest is not a measure of punishment. It is only a means to secure investigation. When the material on record does not demonstrate the necessity of arrest, the Court must lean in favour of liberty, subject to safeguards.

12. Considering the unexplained delay in lodging the complaint, the prima facie material indicating the applicant's absence on the alleged date, the absence of demonstrated criminal antecedents, and the fact that custodial interrogation is not shown to be indispensable, this Court is of the opinion that the applicant has made out a case for grant of pre arrest bail.

13. The apprehension of misuse of liberty can be addressed by imposing appropriate conditions. Such conditions will ensure the presence of the applicant and protect the interest of investigation.

Accordingly, the application deserves to be allowed.

14. Hence, following order is passed:

a) In the event of arrest in connection with Crime Register No.741 of 2025 registered with Amboli Police Station, for offences punishable under Sections 376(1), 354(C), 509, 506 read with 34 of the Bhartiya Nyaya Sanhita, 2023, the applicant be released on bail on furnishing PR. bond of Rs. 15,000/-, along with one or two sureties in the like amount.

b) The applicant shall remain present before the concerned police station on Monday at 10.30 am and thereafter as and when called by the investigating officer.

c) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer.

d) The Applicant shall cooperate with investigation. The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police.

e) The applicant shall, at the time of execution of the bond, furnish his address and mobile number to the investigating officer, and the Court concerned, and shall not

change the residence till the final disposal of the case.

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

(AMIT BORKAR, J.)