



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 942 OF 2025

1. Amin Abbas Pathan
2. Shabana Amin Pathan
3. Ahmad Gulmahmmad Pathan
4. Ashu Hujafar Pathan

VERSUS

The State Of Maharashtra And Another

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WITH

ANTICIPATORY BAIL APPLICATION NO. 1424 OF 2025

Arbaj Amin Pathan

VERSUS

The State Of Maharashtra And Another

...

WITH

CRIMINAL APPLICATION NO. 225 OF 2026

IN ABA/942/2025

WITH

CRIMINAL APPLICATION NO. 219 OF 2026

IN ABA/1424/2025

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- Mr. Vikrant Valse, Advocate h/f. Mr. F. K. Patel, Advocate for Applicants in both Anticipatory Bail Applications
- Mr. N. S. Tekale, APP for Respondent No. 1 – State in both Anticipatory Bail Applications
- Ms. Nupur Paliwal, Advocate for Respondent No. 2 (Appointed) in both Anticipatory Bail Applications

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CORAM : MEHROZ K. PATHAN, J.

DATED : 28.01.2026

PER COURT :

1. Heard learned counsel for the applicant and the learned APP for the respondent-State.

2. The applicants have approached this Court apprehending their arrest in connection with FIR No.188 of 2025 dated 19.03.2025, registered with Ahmedpur Police Station, District Latur, for the offences punishable under Sections 137(2), 69, 64(2)(m) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, under Sections 3(1)(w)(i), 3(1)(w)(ii) and 3(2)(5) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, and under Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. This Court, vide interim order dated 24.07.2025 passed in ABA No.942 of 2025 and vide interim order dated 21.08.2025 passed in ABA No.1424 of 2025, protected the applicants subject to conditions that they shall attend the concerned police station and cooperate with the investigation. It is submitted that the applicants have duly complied with the said conditions.

4. Learned counsel for the applicants submits that the principal allegations of kidnapping and forcible sexual intercourse are against the main accused Sahil. The present applicants are relatives of the said accused and have been falsely implicated with an intention to rope in the entire family members of main accused Sahil. It is submitted that the applicants have no criminal antecedents and are willing to abide by any conditions that may be imposed by this Court. It is further submitted that since the applicants have complied with

the interim orders, they deserve confirmation of anticipatory bail.

5. Per contra, the learned APP as well as the learned assisting counsel for respondent No.2 opposed the applications contending that the applicants are involved in a serious offence of kidnapping of a minor girl. It is submitted that the applicants have abetted the commission of the crime by the main accused. Being close relatives of the main accused, there is a likelihood that if released on bail, the applicants may tamper with the prosecution evidence and influence witnesses. Hence, it is prayed that the applications be rejected.

6. I have gone through the investigation papers made available by the learned APP. A perusal of the investigation papers shows that the victim girl was found along with the accused Sahil at Pune on 16.04.2025. The statement of the victim girl was recorded by the prosecution on 17.04.2025 under Section 183 of the BNSS. A perusal of the statement of the victim indicates that she had willingly left her house with Sahil and travelled to Pune and Latur after her last examination held on 18.03.2025. A perusal of the statement of the accused further shows that the victim, who was aged about 16 years, had voluntarily left her house and accompanied the main accused Sahil out of love and affection.

7. Considering the age of the victim at the time of the alleged kidnapping, the victim girl was aged about 16 years, whereas the

main accused Sahil was aged about 21 years. The Division Bench of this Court in ***Sunil Mahadev Patil vs. State of Maharashtra***, SCC OnLine Bom 6204 (2015), was pleased to observe as under:—

“7. In the case of S.Varadarajan (supra) though the age of consent though as per law was 18 years, when the girl eloped with the accused, she was approximately 17 years and 9 months old. The Hon'ble Supreme Court in the case of S. Varadarajan has distinguished Section 361 on the point of taking from the guardian or enticing the girl and the girl herself leaving the house of the parents of her own and accused allowing her to be in his company and has held that it not a case of rape. In the case of S. Varadarajan, the matter was finally heard and the accused was convicted. In appeal, the decision of the Hon'ble Supreme Court can be culled out that if a girl takes initiative or she is active in taking decision of going away with the boy and she understands the meaning of man-woman relationship and of marriage, then the rigor of offence is reduced.

8. It is to be noted that the case of S. Varadarajan was decided in the year 1967 when the women were not enjoying the freedom which today the women have. Albeit the Hon'ble Supreme Court then has taken a pragmatic view and has acquitted Varadarajan. Now we come across such cases everyday. If a girl is a minor between the age group of 15 to 18 years and if it can be safely inferred that her consent was obvious, then it is a mitigating circumstance. Some trial Courts dealing with such Bail Applications, especially after Nirbhaya case, started taking a strict approach and the accused are denied the bail only on the ground that the prosecutrix being minor below 18 years, her consent is immaterial, therefore, in the case of rape on such minor, no bail can be granted. This is a matter of concern.”

8. Supreme Court in the case of ***State of Uttar Pradesh Vs. Anurudh and Another***; 2026 SCC OnLine SC 40 has observed as under :-

“The Delhi High Court in the case of Sahil v. The State NCT of Delhi; 2024 DHC 6100 was pleased to observe that the Court noted in para 11 of the order that POCSO cases filed at the behest of a girl’s family objecting to romantic involvement with a young boy have become common place and consequent thereto these young boys languish in jails. Therein, reference is also made to an order of the Gujarat High Court, where the Court noted that considering the closeness in age of the prosecutrix and the accused as also the fact that she had left home of her own accord observed that the application deserved consideration.

Considering the fact that repeated judicial notice has been taken of the misuse of these laws, let a copy of this judgment be circulated to the Secretary, Law, Government of India, to consider initiation of steps as may be possible to curb this menace inter alia, the introduction of a Romeo – Juliet clause exempting genuine adolescent relationships from the stronghold of this law; enacting a mechanism enabling the prosecution of those persons who, by the use of these laws seeks to settle scores etc.”

9. Thus, it can be seen that, taking into consideration the repeated judicial pronouncements of various High Courts across the country, the Hon’ble Supreme Court has advised the Government of India to introduce a “Romeo-Juliet clause” exempting genuine adult relationships from the rigours of the law, while enacting a mechanism to enable the prosecution of those persons who misuse such laws to settle scores. The implication of all the family members of the main accused, Sahil, appears to be one such attempt by the family members of the victim to settle scores with the family members of the main accused, Sahil.

10. The main accused Sahil aged 21 years was already arrested in the present crime. As far as the role of the present applicants is concerned, they are near relatives of the main accused Sahil and alleged only to have abetted the commission of the offence. Considering the nature of allegations, the material collected during investigation, and the fact that the investigation has culminated in filing of the charge-sheet, I am inclined to protect the applicants in exercise of powers under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023.

11. Hence, the following order :-

ORDER

- i. The Anticipatory Bail Applications are allowed.
- ii. The interim orders dated 24.07.2025 and 21.08.2025 are hereby confirmed, subject to the following further conditions :-
 - A) The Applicants are directed to attend the concerned police station and report to the Investigating Officer as and when called by the Investigating Officer.
 - B) The Applicants shall also cooperate with the investigation.
 - C) The Applicants shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence, in any manner.

D) The applicants shall furnish copies of his Aadhaar Card and PAN Card to the Investigating Officer along with the addresses and mobile numbers of two nearest relatives.

12. Needless to state that a single violation of any of the aforesaid conditions shall entitle the prosecution to seek cancellation of the anticipatory bail granted herein.

13. The observations made herein are prima facie and shall not influence the Trial Court while deciding the case on its own merits.

14. Fees of the learned appointed counsel, Ms. Nupur Paliwal, Advocate for Respondent No. 2 (Appointed) in both Anticipatory Bail Applications, shall be paid as per the schedule of fees prescribed by the High Court Legal Aid Services Sub-Committee, Aurangabad, expeditiously.

15. In view of the above, the Anticipatory Bail Applications stand disposed of.

16. Pending applications, if any, also stand disposed of.

(MEHROZ K. PATHAN, J.)