

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.787 OF 2025

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Asif Badshaha Shaikh

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Chinmay K. Gunjal, appointed on behalf of the Applicant.

Mr. S. M. Mangaonkar, APP, for the Respondent-State.

Mr. Anuj Tiwari, for the Complainant/First Informant.

P.S.I. Borade, Khadak Police Station, Pune City, present.

CORAM: MADHAV J. JAMDAR, J.

DATED: 18 FEBRUARY 2026

PC:-

1. Heard Mr. Gunjal, learned Counsel appointed to represent the interest of the Applicant, Mr. Mangaonkar, learned APP for the Respondent-State of Maharashtra and Mr. Tiwari, learned Counsel appearing for the Complainant/First Informant.

2. By the present Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicant who is Accused No.5, is seeking pre-arrest bail in connection with CR No.377 of 2024 registered with the Khadak Police Station, Pune City, for the offences punishable under

Sections 108, 3(5), 316(2) & 318(4) of the *Bharatiya Nyaya Sanhita, 2023* (“BNS”).

3. The prosecution case is set out in Paragraph No.3 of the Order dated 7th February 2025 passed by the learned Additional Sessions Judge, Pune in Criminal Bail Application No.6970 of 2024, which reads as under:

“3. It is the story of the State that the informant is the wife of deceased Ramzan Sache. The applicant/accused, co-accused Sunil Bele, co-accused Mujmmil Faruk Patvekar, co-accused Matin Shaikh, co-accused Afsar Shaikh, co-accused Hyder Shaikh and co-accused Sanjiv Bajarmath had taken various amounts from the deceased and deceived him without repaying the same. The applicant/accused had taken Rs.2,50,000/- from the deceased and deceived him. The other co-accused deceived the deceased by taking huge amounts from the deceased. Therefore, the loan of the bank was due against the deceased. His wife had to sell her ornaments. The deceased came under the tremendous mental tension. Hence, he committed the suicide on 14/10/2024 by hanging himself in his house. The deceased has left two suicide notes.”

4. It is the submission of Mr. Gunjal, learned Counsel appointed to represent the interest of the Applicant, that even if the entire FIR is read as it is, no case is made out under Section 108 of the BNS as against the Applicant. Learned Counsel submits that, as per the prosecution case, an amount of Rs.2,50,000/- has been taken

by the Applicant as loan from the deceased and the same has not been returned. Learned Counsel submits that in the suicide note the Applicant's name is not reflected and his name is reflected in a chit where the Deceased has allegedly written certain names and amounts. Learned Counsel relies on the decision of the Supreme Court in *Abhinav Mohan Delkar v. State of Maharashtra*¹. Learned Counsel, therefore, submits that the Applicant be granted anticipatory bail.

5. On the other hand, Mr. Tiwari, learned Counsel for the Complainant/First Informant, who is the wife of the deceased, and Mr. Mangaonkar, learned APP, for the Respondent-State of Maharashtra, strongly oppose the Anticipatory Bail Application. Both of them submit that the Applicant's name is specifically mentioned in the FIR. They further submit that an amount of Rs.2,50,000/- was taken from the deceased by the Applicant by misrepresentation. Both of them rely on the suicide note. Both of them, therefore, submit that the Anticipatory Bail Application be dismissed.

1 2025 SCC OnLine SC 1725

6. Perusal of the suicide note shows that the Applicant's name is not reflected in the main suicide note. The Applicant's name is reflected in a chit wherein the deceased has mentioned the outstanding amounts from various persons.

7. In any case, the Supreme Court in the decision of ***Abhinav Mohan Delkar*** (supra), has held that Section 306 read with Section 107 of the *Indian Penal Code, 1860*, has been interpreted, time and again, and its principles are well-established. It has been held that to attract the offence of abetment to suicide, it is important to establish proof of direct or indirect acts of instigation or incitement of suicide by the accused, which must be in close proximity to the commission of suicide by the deceased. Such instigation or incitement should reveal a clear *mens rea* to abet the commission of suicide and should put the victim in such a position that he/she would have no other option but to commit suicide. The said observations are squarely applicable to the present case as far as the Applicant is concerned.

8. Perusal of the record shows that there are a total of seven Accused. Accused Nos.2 and 3 Accused have been released on

regular bail. Accused No.4 has been granted interim protection. The Applicant is the Accused No.5.

9. Accordingly, in the facts and circumstances, case is made out for grant of anticipatory bail.

10. In view thereof, the following Order is passed:

ORDER

- (a) In the event of arrest of the Applicant - Asif Badshaha Shaikh, in connection with CR No.377 of 2024 registered with the Khadak Police Station, Pune City, he be released on bail on his furnishing PR Bond in the sum of Rs.25,000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall attend the concerned Police Station as and when called by the Investigating Officer, till filing of the Charge-sheet and shall cooperate with the investigation.
- (c) The Applicant shall furnish his cell phone number and residential address to the Investigating Officer and

shall keep the same updated, in case of any change thereto.

- (d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

11. The Anticipatory Bail Application is disposed of accordingly.

12. This Court places on record its appreciation for the assistance rendered by Mr. Chinmay K. Gunjal, learned Counsel appointed to represent the interest of the Applicant. The High Court Legal Services Committee, Mumbai is requested to pay his professional charges as per the rules.

[MADHAV J. JAMDAR, J.]