

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.323 OF 2026

Satish Bajirao Pekhale ...Applicant
Versus
The State of Maharashtra ...Respondent

Ms. Sana Raees Khan (Through Video Conferencing) a/w Palak Kasliwal, for the Applicant.
Ms. G. P. Mulekar, APP, for the Respondent-State.
Head Constable, T. D. Lonare, Nashik Road Police Station, Nashik City, present.

CORAM: MADHAV J. JAMDAR, J.
DATED: 05 FEBRUARY 2026

PC:-

1. Heard Ms. Sana Raees Khan, learned Counsel appearing for the Applicant and Ms. Mulekar, learned APP for the Respondent-State of Maharashtra.

2. By the present Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicant is seeking pre-arrest bail in connection with CR No.239 of 2025 registered on 2nd May 2025 with the Nashik Road Police Station, Nashik City, for the offences punishable under Sections

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103, 109, 3(5) and 238 of the *Bharatiya Nyaya Sanhita, 2023* and Section 142 of the *Maharashtra Police Act, 1951*.

3. As per the prosecution case, there are 3 Accused. Accused No.1 is Nilesh Bajirao Pekhale, who is arrested and behind bars. The present Applicant-Satish Bajirao Pekhale is Accused No.2 and brother of Accused No.1. The Accused No.3-Bajirao Pekhale is the father of the Accused Nos.1 and 2.

4. As per the prosecution case, Accused No.1 and the deceased Hitesh Subhash Doiphode were close friends. One Pranali Doiphode is wife of the deceased Hitesh Doiphode. On 14th April 2025, Accused No.1-Nilesh Bajirao Pekhale went to her parents' residence as she had gone to her parents' house and threatened and molested her. Accused No.1 threatened the wife of the deceased saying that if sexual relations are not kept with him, then the deceased i.e. husband of said Pranali Doiphode would be involved in a false crime and he would be killed. Accused No.1 had further stated that he is belonging to a political party and he is having good relations with Police. Immediately, thereafter, said Pranali Doiphode informed about the said incident to her husband

i.e. deceased Hitesh Doiphode and other relatives. Said deceased Hitesh Doiphode therefore called Accused No.1-Nilesh Bajirao Pekhale and sought explanation for the said conduct and in view of the same all Accused by using iron rod, knife and sickle assaulted the deceased Hitesh. The deceased suffered 32 injuries including on the vital parts of the body namely, neck, back, face, head, arm, shoulder, right hand, chin, lips, eyebrows and fracture of the nasal bone. The deceased succumbed to the injuries immediately.

5. It is the submission of Ms. Khan, learned Counsel for the Applicant that FIR does not mention the name of the present Applicant. She submits that even the entire Charge-sheet sheet does not mention about the name of the present Applicant as also no role has been attributed to the present Applicant.

6. On the other hand, Ms. Mulekar, learned APP, strongly opposes the Application. She submits that all the Accused brutally assaulted the deceased with weapons like iron rod, knife and sickle on the vital part of the body and the deceased was killed. She submits that two witnesses have specifically taken the name of the Applicant and therefore the contention raised by Ms. Sana Raees

Khan that none of the witnesses have taken the name of the Applicant is incorrect.

7. As far as the statement of witness-Sujit *alias* Bunty Gopal Jarude, Ms. Sana Khan, learned Counsel submits that the same is extra-judicial confession and cannot be relied upon and relies on the Judge of the Supreme Court in the case of ***Subramanya v. State of Karnataka***¹, and more particularly on Paragraph No.52 of the same.

8. However, perusal of the various statements, shows that it is specifically mentioned that Accused No.1-Nilesh Bajirao Pekhale along with two persons have assaulted the deceased. The statement of witness-Pratik Bapu Ahire, specifically records that when the incident took place, he had seen Nilesh Pekhale i.e. Accused No.1 was having a sickle and it is specifically mentioned that his brother was present and the deceased was lying on the ground. Although crowd was gathered, Accused No.1-Nilesh was abusing everybody and threatening the people and asking them to go away. Statement of Sujit *alias* Bunty Gopal Jarude, specifically

1 (2023) 11 SCC 255

records that although people were insisting that deceased should be immediately taken to the hospital, Accused No.3 i.e. father of the present Applicant stated that all the Accused have killed the deceased and they would take the deceased to the hospital. In fact, thereafter Accused No.1-Nilesh took the deceased in his car to the hospital.

9. Thus, there is no substance in the contentions raised by Ms. Khan, learned Counsel for the Applicant, that the Applicant's name is not mentioned in the entire Charge-sheet.

10. She has also relied on the decision of the Supreme Court in the case of ***Subramanya*** (supra) and more particularly on Paragraph No.52 of the same, as witness-Sujit *alias* Bunty Gopal Jarude has stated that Accused No.3 has stated that Accused No.1-Nilesh, Accused No.2-Satish i.e. the present Applicant and himself i.e. Accused No.3 has assaulted the deceased. Said Paragraph No.52 of the said decision of ***Subramanya*** (supra), reads as under :-

“52. An extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by

the Court. The confession will have to be proved like any other fact. The value of the evidence as to confession, like any other evidence, depends upon the veracity of the witness to whom it has been made. The value of the evidence as to the confession depends on the reliability of the witness who gives the evidence. It is not open to any court to start with a presumption that extra-judicial confession is a weak type of evidence. It would depend on the nature of the circumstances, the time when the confession was made and the credibility of the witnesses who speak to such a confession. Such a confession can be relied upon and conviction can be founded thereon if the evidence about the confession comes from the mouth of witnesses who appear to be unbiased, not even remotely inimical to the accused, and in respect of whom nothing is brought out which may tend to indicate that he may have a motive for attributing an untruthful statement to the accused, the words spoken to by the witness are clear, unambiguous and unmistakably convey that the accused is the perpetrator of the crime and nothing is omitted by the witness which may militate against it. After subjecting the evidence of the witness to a rigorous test on the touchstone of credibility, the extra-judicial confession can be accepted and can be the basis of a conviction if it passes the test of credibility.”

(Emphasis added)

11. At the outset, it is required to be noted that the said Judgment is arising out of a case where trial is completed and Appeal filed in the High Court is also disposed of. Even the said Judgment also records that an extra-judicial confession, if voluntary and true and made in a fit state of mind, can be relied upon by the Court and such confession will have to be proved like

any other fact. In fact, said Paragraph No.52 records that it is not open to any court to start with a presumption that extra-judicial confession is a weak type of evidence.

12. In any case, this is an Anticipatory Bail Application. The offence is of murder. The offence has taken place in a brutal manner. There is material on record showing the involvement of the Applicant in the crime.

13. The Supreme Court in the case of *Nikita Jagganath Shetty vs. State of Maharashtra*², held that anticipatory bail is an exceptional remedy and ought not to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences. It has been further observed that the Court should be very cautious while dealing with the applications for anticipatory bail as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to

2 2025 SCC OnLine SC 1489

tampering or distraction of the evidence. The said observations of the Supreme Court are squarely applicable to the present case.

14. This is a case where the Applicant is absconding. The Supreme Court in the case of *Lavesh v. State (NCT of Delhi)*³, has held that this extra ordinary relief of anticipatory bail need not be granted to a person who is absconding. Paragraph No.12 of the said decision of *Lavesh* (supra) reads as under :-

“12. From these materials and information, it is clear that the present appellant was not available for interrogation and investigation and was declared as “absconder”. Normally, when the accused is “absconding” and declared as a “proclaimed offender”, there is no question of granting anticipatory bail. We reiterate that when a person against whom a warrant had been issued and is absconding or concealing himself in order to avoid execution of warrant and declared as a proclaimed offender in terms of Section 82 of the Code he is not entitled to the relief of anticipatory bail.”

15. The Supreme Court has further held in the case of *State Rep. By the C.B.I. v. Anil Sharma*⁴ that the custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who has been granted favourable order under Section 438 of Code of Criminal Procedure, 1973 (i.e. Section 482 of BNSS). It has

3 (2012) 8 SCC 730

4 (1997) 7 SCC 187

been held that, in serious crime for effective interrogation of a suspected person custodial interrogation is necessary.

16. This is a case where, as per the prosecution case, the deceased has been mercilessly assaulted by all the Accused and died in the said assault.

17. Thus, in the facts and circumstances, no case is made out for grant of anticipatory bail.

18. The Anticipatory Bail Application is dismissed.

[MADHAV J. JAMDAR, J.]