

IN THE COURT OF ADDL.SESIONS JUDGE AT PAITHAN
DISTRICT AURANGABAD

MHAU170001492026



Cri. Bail Application No. 32 of 2026

Tofik s/o Badruddin Shaikh Vs. State of Maharashtra.

Crime No. 513 of 2024, U/s. 140(2), 115(2), 352, 351(3) R/w 3(5) of BNS and U/s. 3 R/w 25 of Indian Arms Act, Police Station Pachod, Tq. Paithan, Dist. Aurangabad.

ORDER BELOW EXH. 01

01. This is an application under section 482 of Bharatiya Nagarik Suraksha Sanhita, 2023, for grant of anticipatory bail by applicant namely Tofik s/o Badruddin Shaikh.

02. The Investigating Officer submitted his reply vide Exh.04 and opposed the application on the ground that the applicant and co-accused used fire arm while committing the offence. If the applicant is granted anticipatory bail, he will indulge in similar type of offence. It is his further contention that the custodial interrogation of applicant is necessary for the purpose of recovery of ransom money.

03. Heard Ld. Counsel for the applicant and learned APP for the State. Perused the application, reply and copy of charge-sheet. It is the submission of learned counsel for applicant that there is inordinate delay in lodging FIR and therefore, the applicant deserves an anticipatory bail. I am not convinced with this submission as the

informant Birendra Ram Khiladi has advanced the reason of said delay in the FIR itself and the same is that the co-accused was having pistol and therefore, he was frightened due to death threat. Not only this, the other victim Ladhu Giri Goswami has also disclosed in his statement about the use of pistol by applicant and co-accused in extorting money (total amount of Rs.77,000/-) from him on three occasions i.e. 04.12.2024, 05.12.2024 and 09.12.2024. Ladhu Giri Goswami has also disclosed that he got courage to come forward to speak against the applicant and co-accused only after he came to know that Birendra Ram Khiladi has lodged report against the applicant and co-accused regarding extortion.

04. It is the submission of learned counsel for the applicant that the name of applicant is not mentioned in FIR and he has been arrayed as an accused only on the basis of statement of co-accused and therefore, the applicant is entitled to anticipatory bail. I am not convinced with this submission. It is true that a statement by co-accused is not admissible in evidence. But such a statement can be considered or treated as a clue or a piece of information to initiate and conduct inquiry/investigation so as to find out as to whether there is any independent, satisfactory and reliable material which may support or justify or provide reason for continuing inquiry/investigation for initiating further investigation. At the stage, when the investigation has commenced or the process is going on, any occasion or any question of treating or considering such a statement as evidence does not arise. In this regard, it would be useful to refer the observations of the

Hon'ble Supreme Court in the case of **Mohd. Fasrin Vs. State in Criminal Misc. Application No. 296 of 2014** which reads as :-

“.....the confessions of a co-accused gives a clue to the investigating authorities as to how to investigate the matter and against whom to investigate the matter. Thereafter, it is for the investigating officers to collect evidence against the said person who has been named by the co-accused.....”.

05. Since the investigating officer got clue from the co-accused regarding the involvement of present applicant, he can interrogate the present applicant so as to have the details of the crime. In the case in hand, ransom money is yet to be recovered and for that purpose, custodial interrogation of applicant will definitely be necessary. Therefore, anticipatory bail cannot be granted to the applicant.

06. It is further submission of learned counsel for applicant that the applicant is entitled to bail on the ground of parity. I am not convinced with this submission. While considering the ground of parity, the role played by the accused persons and their criminal antecedents needs to be looked into. The Hon'ble High Court noted in the Bail Order, relied upon by the applicant, that there are no antecedents against accused No.1 and accused No.3 and there is only one antecedent against applicant No.2, in which he got acquittal. Such is not the case in respect of present applicant. The Investigating Officer has disclosed in his reply that applicant is habitual offender and there is one offence registered against him under the provisions of SC&ST (Prevention of Atrocities) Act.

07. Considering the necessity of custodial interrogation for recovery of ransom money, the gravity of offence, severity of punishment, involvement of applicant in other crime and also the possibility of tampering with prosecution witnesses, I am not inclined to grant bail to the present applicant. I, therefore, proceed to pass following order.

ORDER

Application Exh.01 is hereby rejected.

Date : 17.03.2026

(R.D.Gadwe)
Additional Sessions Judge,
Paithan.