



2025 INSC 878

NON-REPORTABLE
IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 10251 of 2024)

NIKITA JAGGANATH SHETTY @
NIKITA VISHWAJEET JADHAVAPPELLANT(S)

VERSUS

THE STATE OF MAHARASHTRA
AND ANOTHER ..RESPONDENT(S)

WITH

CRIMINAL APPEAL NO(S). OF 2025
(Arising out of SLP (Crl.) No (s). 10255 of 2024)

J U D G M E N T

Mehta, J.

- 1.** Heard.
- 2.** Leave granted.
- 3.** These appeals, by special leave, call into question the order dated 19th June, 2024, passed by

the learned Single Judge of High Court of Judicature at Bombay¹ in Anticipatory Bail Application Nos. 3137 of 2023 and 2499 of 2023, whereby respondent No. 2 in Criminal Appeal @ SLP(Crl.) No. 10251 of 2024 and respondent Nos. 2, 3, and 4 in Criminal Appeal @ SLP(Crl.) No. 10255 of 2024, were granted pre-arrest bail in connection with Crime No. 1-103 of 2023.

4. The appellant herein is the complainant-victim² who filed Crime No. 1-103 of 2023 at Deccan Police Station, Pune, against her husband, namely, Vishwajeet Vinayk Rao Jadhav (respondent No. 4 in Criminal Appeal @ SLP(Crl.) No. 10255 of 2024)³ and the other accused persons (private respondents in both the appeals) alleging *inter alia* that these accused persons acting in concert attempted to take forcible possession of a property, known as Hotel Vaishali⁴, which was owned by the appellant-complainant's father and devolved upon her post his demise.

¹ Hereinafter referred to as 'High Court'.

² Hereinafter referred to as 'appellant-complainant.'

³ Hereinafter referred to as 'accused-Vishwajeet.'

⁴ Hereinafter referred to as 'subject-hotel'.

5. The appellant-complainant and the accused-Vishwajeet who were married on 1st January, 2018, developed matrimonial strife. The accused-Vishwajeet managed to procure the power of attorney, and a gift deed of the subject-hotel executed in his name. For these acts, the appellant-complainant filed an FIR⁵ against accused-Vishwajeet and his family members and others on 19th June, 2023, at Shivajinagar Police Station, Pune.

6. The accused-Vishwajeet filed a Civil Suit No. 1248 of 2023 in the Court of Civil Judge, Senior Division who, *vide* order dated 27th June 2023, granted an interim *ex parte* injunction in his favour. Armed with the *ex parte* injunction order, accused-Vishwajeet, along with his companions (co-accused persons) went to the hotel and forcibly trespassed into the premises owned by the appellant-complainant, where they caused extensive damage including disconnecting the CCTV system, cutting down the DVR wires, and vandalizing the interiors of the property.

⁵ FIR No. 119 of 2023.

7. The appellant-complainant registered an FIR being Crime No. 1-103 of 2023, against the accused respondents at Deccan Police Station, Pune on 29th June, 2023 for the offences punishable under Sections 143, 147, 149, 323, 387, 427, 452, 504 and 506 of the Indian Penal Code, 1860.⁶

8. The accused respondents herein, apprehending their arrest in connection with the aforesaid FIR, approached the Sessions Court, Pune, seeking the grant of pre-arrest bail. It may be mentioned that, in the meantime, the appellant-complainant had filed a Civil Misc. Appeal No. 254 of 2023 before the District Judge for challenging the *ex parte* interim order dated 27th June, 2023, which was allowed *vide* Order dated 17th August, 2023 and the interim order granting injunction was set aside.

9. The application for pre-arrest bail filed by the private respondents came to be rejected by the Additional Sessions Judge, Pune, *vide* order dated 25th August, 2023. The learned Additional Sessions Judge took note of the fact that the accused-

⁶ For short 'IPC'.

Vishwajeet, while seeking anticipatory bail, had concealed the material fact that the *ex parte* injunction order had been set aside by the District Court in appeal filed by the appellant. The accused-Vishwajeet actually relied upon the said *ex parte* interim order to obtain interim bail.

10. Be that as it may, the accused respondents approached the High Court seeking anticipatory bail by way of Anticipatory Bail Application Nos. 3137 of 2023 and 2499 of 2023. The aforesaid applications filed by accused respondents stand allowed *vide* order dated 19th December, 2024, which is subject matter of challenge in these appeals by special leave.

11. The accused respondents in both the appeals though duly served, have chosen not to put in appearance before this Court.

12. Respondent No.1-State⁷ has filed counter affidavit supporting the appellant-complainant and levelling grave allegations against the accused respondents including that of misusing and violating the conditions of the *ad interim* bail. There is a

⁷ Hereinafter, referred to as “State”.

specific allegation in the counter affidavit that the accused-Vishwajeet threatened an employee of the subject-hotel, namely, Bahadur (the guard), with dire consequences insinuating that he would be removed from his job. A non-cognizable Crime No. 283 of 2023 has been registered against the accused-Vishwajeet, for the said act of threatening the witnesses.

13. In addition thereto, the counter affidavit filed by the State also refers to a complaint that has been registered at Deccan Police Station, Pune, which led to registration of Crime No. 167 of 2023 against the accused-Vishwajeet for the offences punishable under Sections 406, 403, 420, 467, 468, 471, 120-B read with Section 34 of the IPC. The allegations in the said FIR pertain to misuse of power of attorney and securing a loan of Rs. 5 crores by mortgaging the subject-hotel using duplicate documents. Accused-Vishwajeet was involved in yet another incident of threatening the employees of the appellant-complainant on 4th December, 2023, for which another application was submitted at the police station. Accused-Vishwajeet also faces four more criminal cases in addition to FIR No. 1-103 of 2023,

which fact is noted at *paragraph (j)* of the counter affidavit.

14. The presence of the other accused persons at the scene of the crime, for the purpose of removing the existing banners from the subject-hotel, has also been recorded in *paragraph 3* of the counter affidavit, which is based on the recordings captured in the CCTV footage.

15. It is in this background that the appellant-complainant seeks cancellation of anticipatory bail granted to the accused respondents.

16. The State has supported the plea of the appellant-complainant seeking cancellation of anticipatory bail granted to the accused respondents. It is specifically mentioned in the counter affidavit that the police custody of accused-Vishwajeet is necessary because he did not cooperate in the investigation.

17. Having heard and considered the submissions advanced by learned counsel for the appellant-complainant and learned Standing counsel for the State, and after going through the impugned order

and the material placed on record, we find that the High Court clearly erred in extending the benefit of pre-arrest bail to the accused respondents.

18. This Court, in numerous judgments, has 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. In this regard, we may gainfully refer to ***Srikant Upadhyay v. State of Bihar***⁸ wherein this Court noted as follows:

“We have already held that the power to grant anticipatory bail is an extraordinary power. Though in many cases it was held that bail is said to be a rule, it cannot, by any stretch of imagination, be said that anticipatory bail is the rule. It cannot be the rule and the question of its grant should be left to the cautious and judicious discretion by the Court depending on the facts and circumstances of each case. **While called upon to exercise the said power, the Court concerned has to be very cautious 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 tampering or distraction of the evidence. We shall not be understood to have held that the Court shall not pass an interim**

⁸ 2024 SCC OnLine SC 282.

protection pending consideration of such application as the Section is destined to safeguard the freedom of an individual against unwarranted arrest and we say that such orders shall be passed in eminently fit cases....”

(emphasis supplied)

19. In the present case, the allegations against the accused respondents, including accused-Vishwajeet, are grave in nature. There is a clear observation by the learned Additional Sessions Judge in the bail rejection order dated 7th September 2023 that the accused respondents tried to mislead the Court by concealing the fact that the *ex parte* injunction order dated 27th June, 2023 had been set aside in appeal. The High Court seems to have glossed over this important aspect of the case and granted indulgence of pre-arrest bail to the accused respondents without considering the nature and gravity of allegations attributed to them and the fact that there was an imminent need for custodial investigation of the accused respondents.

20. Additionally, the High Court failed to notice the criminal antecedents of the accused persons, which are highlighted in the counter affidavit filed by the

State. Apparently, the incident recorded in the FIR was a clear-cut attempt by the estranged husband (accused-Vishwajeet) to dispossess his own wife (appellant-complainant) from her lawfully inherited property i.e., the subject-hotel, by use of force and by employing henchmen to do the dirty work. Hence, considering the gravity of allegations, it is not a case warranting indulgence of pre-arrest bail to the accused. In our view, the High Court clearly erred in granting such liberty to the accused respondents. Furthermore, by threatening the witnesses, the accused-Vishwajeet has flouted the conditions of anticipatory bail order. For this reason, also he cannot be allowed to continue on anticipatory bail.

21. In the wake of the discussion made hereinabove, the impugned order dated 19th June, 2024 passed by the High Court, is hereby quashed and set aside. The anticipatory bail granted to the private respondents in both the appeals is hereby cancelled. The accused respondents shall surrender before the trial Court within a period of two weeks from today. They shall be at liberty to apply for regular bail, which shall be considered as per law,

subject to the right of the Investigating Officer to seek police custody/remand.

22. The appeals are allowed accordingly.

23. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
JULY 21, 2025.