

MHCC020169302025



IN THE COURT OF SESSION FOR GREATER MUMBAI AT MUMBAI

ANTICIPATORY BAIL APPLICATION NO.2071 OF 2025

IN

(C.R. NO. 464/2025)

(CID C. R. NO.107/2025)

1. Abhirup Paul

Age: 32 Years,
Resident of Keni House, Borla Village,
Govandi, Mumbai 400 071.

2. Nikita Monica Dsouza

Age: 24 Years, Resident of B-703,
Crystal Armus, Khardev Nagar,
Chembur, Mumbai 400 071.

**... Applicants /
Accused**

V/s.

The State of Maharashtra

(Through Trombay Police Station vide C. R.
No.464/2025) (CID C. R. No.107/2025)

... Respondent

Appearance :-

Mr. Vijay Hiremath, Ld. Advocate for the Applicants.

Mr. Shishir Hiray, Ld. SPP for the Respondent / State.

**CORAM: H H THE ADDL. SESSIONS JUDGE
SHRI. V. B. BOHRA (Court Room No.27)**

DATE : 07th August, 2026

The applicants accused have filed this application under
Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS)
for grant of pre-arrest bail in connection with Crime No.464/2025

registered with Trombay Police Station, Mumbai for an offence punishable under Sections 189(2), 190, 192, 196, 197 and 223 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 37(1)(a), 37(3) and 135 of the Maharashtra Police Act, 1951 (Police Act). It appeared that, the investigation was taken by the CID, fresh Crime No.107/2025 came to be registered and Section 61(2)(a) of BNS came to be added.

2) According to them, they are sincere students. False and baseless allegations are made against them. They did pay homage to G. N. Saibaba and remembered him for his contribution in the field of human rights. They never raised any slogan to release Sharjeel Imam or Umar Khalid. Even if so, the same is not criminal offence under any provision of the Indian Law. Ingredients of alleged offences are not made out. They are innocent and are falsely implicated. No cogent evidence is there against them. They have no criminal antecedents. They have already co-operated the investigation agency. Their custodial interrogation is not necessary. They are ready to co-operate the investigating agency and will abide by the conditions imposed by the Court. Hence, they have prayed accordingly.

3) The Ld. IO and Ld. SPP have opposed the application by filing reply at Exh.2 and Exh.6. According to them, G. N. Saibaba was active member of the Revolutionary Democratic Front of banned CPI (Maoist) Organization. He died on 12.10.2024. On 12.10.2025, the accused persons had paid homage to him in the premises of Tata Institute of Social Science, thereby, shown hatred against the Government. Even, they raised slogans to the effect that, "*Umar Khalid ko riha karo*", "*Sharjeel Imam ko riha karo*", who are in jail for an offence punishable under the Provisions of Unlawful Activities

(Prevention) Act, 1967 (UAPA). Even, accused have read poem written by G. N. Saibaba. Further, Progressive Students Forum Organization used to work against college administration. Applicant accused Abhirup is member of that Forum. Through Social Media that Forum tried to pressurize the informant. In the mobile phone of applicant accused Abhirup certain books found downloaded. Moreover, certain material found deleted. Even, he had done field work. Applicant accused Nikita was also present on the spot of incident. Thorough investigation is required. Custodial interrogation of the applicants accused is necessary. If pre-arrest bail is granted, then there would be obstruction in the investigation and ascertaining the co-accused. Hence, they have prayed for rejection of the application.

4) Heard both sides at length. The Ld. SPP took me to the various papers in the case diary. The Ld. Advocate for the applicants has also filed written submissions. He has relied upon the following judgments :-

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|---|---|
| (Acquittal order of G. N. Saibaba) | a) Passed by <i>the Hon'ble Bombay High Court Nagpur Bench on 05.03.2024 in Criminal Appeal Nos.136 & 137 of 2017 in between Mahesh Kariman Tirki & Ors. V/s. State of Maharashtra ;</i> |
| (Criminal Appeal against Acquittal by the State of Maharashtra) | b) Passed by <i>the Hon'ble Supreme Court in Special Leave Petition (Criminal) Diary No(s).10501/2024 (Arising out of impugned final judgment and order dated 05.03.2024 in CRA No.136/2017 passed by the Hon'ble High Court Judicature at Bombay at Nagpur) on 11.03.2024 in between The State of Maharashtra V/s. Mahesh Kariman Tirki & Ors. ;</i>

c) Passed by <i>the Hon'ble Bombay High Court in the case of Nitin V/s. State of Maharashtra, thr. PS Incharge Yavatmal City (2024 SCC OnLine Bom 2885);</i> |

- d) Passed by *the Hon'ble Bombay High Court on 11.02.2020 in Anticipatory Bail Application No.342 of 2020 in between Urvashi Chudawala V/s. State of Maharashtra ;*
- e) Passed by *the Hon'ble Bombay High Court on 30.11.2021 in Anticipatory Bail Application No.342 of 2020 in between Urvashi Chudawala V/s. State of Maharashtra ;*
- (On Quashing of FIR) f) Passed by *the Hon'ble Supreme Court in between Imran Pratapgadhi V/s. State of Gujarat & Anr., (2025 SCC OnLine SC 678);*
- (On Quashing of FIR) g) Passed by *the Hon'ble Supreme Court in between Javed Ahmad Hajam V/s. State of Maharashtra and Anr., ((2024) 4 Supreme Court Cases 156) ;*
- (Regular Bail) h) Passed by *the Hon'ble Bombay High Court on 03.10.2012 in Criminal Bail Application No.1020 of 2012 in between Ms. Jyoti Babasaheb Chorge V/s. State of Maharashtra and Criminal Bail application No.1066 of 2012 in between Ms. Sushma Hemant Ramtekke V/s State of Maharashtra ;*
- (Regular Bail) i) Passed by *the Hon'ble Supreme Court in between Thwaha Fasal V/s. Union of India ((2022) 14 Supreme Court Cases 766) ;*
- (Quashing of Criminal Case) j) Passed by *the Hon'ble Madras High Court in the case of Aravinth and Ors. V/s. The State (MANU/TN/7124/2022) ;*
- (Quashing of Criminal Case) k) Passed by *the Hon'ble Madras High Court on 08.12.2021 in Cri. O. P (MD) No.15309/2021 in between S. Dineshkumar V/s. The Inspector of Police and one ; and*
- (Regular Bail) Passed by *the Hon'ble Delhi High Court on 06.05.2024 in CRL.A. 79/2024 & CRL.M.A. 2650/2024 in between Ammar Abdul Rahiman V/s. National Investigation Agency.*

5) I have gone through the rival submissions, rival contentions of the parties, relevant provisions of law, documents produced by the

applicants accused, judgments cited supra and the record of this proceeding.

6) Before going further, it is to be kept in mind that, while adjudicating the application for bail, more particularly for pre-arrest bail, prima-facie case made out in the FIR are to be looked into. At this stage, the nature of defence raised by an accused need not be given much importance. Further, parameters while considering the application for regular bail and that of for pre-arrest bail are different and not similar except certain principles regarding the concept of grant of bail. Moreover, the Hon'ble High Courts and the Hon'ble Apex Court being Constitutional Courts are having extraordinary powers or jurisdiction while considering the quashing of an FIR and further proceedings arose out of it.

7) It is also settled law that, while adjudicating an application for bail, it is not necessary for the Court to make detail analysis of the evidence or material on record. More particularly, while adjudicating an application for pre-arrest bail moved by an accused, detailed discussion on the material collected by the investigating agency is to be avoided otherwise it would be prejudicial to the investigating agency.

8) In the case in hand, the FIR came to be lodged by the Administration of the TATA Institute of Social Science (TISS) i.e. the Associate Dean having administrative control. In other words, it was not lodged by any police officer.

9) As per the FIR, on 12.10.2025 in between 7.30 p.m. and 8.30 p.m. around 10 to 12 students including the accused persons have,

without prior permission of the administration, paid homage to Gokarakonda Naga Saibaba (G. N. Saibaba), who was active member of the International Human Rights Organization and supporter of Naxalite and Moist Organizations, in the premises i.e. in front of Hostel No.4. They have allegedly raised slogans "*Umar Khalid ko riha Karo*" and "*Sharjeel Imam ko riha Karo*". The FIR named in all 9 persons.

10) It appeared that, initially P. S. Trombay has initiated the investigation. Later on, it was taken over by the Crime Investigation Department. To some extent, investigation was done and even certain electronic gazettes came to be recovered from some accused persons. Even, notice under Section 35(3) of the BNSS were issued to accused persons.

11) Admittedly, G. N. Saibaba, who was convicted by the Competent Court of Law for an offence punishable under UAPA and IPC registered with P. S. Aheri, District Gadchiroli, came to be acquitted by the Hon'ble Bombay High Court by judgment and order dated 05.03.2024 in Criminal Appeal. He was reportedly in jail for considerable long period. No doubt, the State of Maharashtra preferred appeal before the Hon'ble Apex Court, however, meantime on 12.10.2024 he died. He was allegedly supporter of Naxalite and Moist Organization.

12) On 12.10.2025, the accused persons, who are students, having no criminal antecedents, allegedly paid homage to G. N. Saibaba in the premises of the institution without prior permission of its administration. They allegedly arranged his photographs, affixed the same on tree, lighted candles, read pomes written by him and even

flashed contents “Rest in Power (since 1967- forever)” instead of Rest in Peace. Further, they allegedly raised slogans “*Umar Khalid ko riha karo*”, “*Sharjeel Imam ko riha karo*”. Umar Khalid and Sharjeel Imam are reportedly in jail for an offence punishable under UAPA.

13) During the course of investigation, as stated above electronic gazettes like laptops and mobile phones came to be seized from the accused persons. In the gazettes recovered from the applicant accused Abhirup, certain books published by the members of Indian Communist Party (Maoist) found downloaded and saved. Even, the WhatsApp chatting found in his mobile phone suggested that, he had attended various places as a field work. Moreover, certain information found deleted by him. From all these materials, it appeared that, he is allegedly inspired by the thinking or ideology of Maoist. The alleged gathering on 12.10.2025 was part of action of implementing the same on other students of the institute. Thereby, the accused Abhirup allegedly tried to change the mindset of other students of the institute. The nature of those material found instigating and aiding illegal activities including division of the Country. He allegedly failed to co-operate the investigating agency on material particulars.

14) No doubt, G. N. Saibaba came to be acquitted of charges leveled against him and therefore, act of paying homage to him by accused persons cannot be termed as illegal. However, the act of accused persons appeared to be not limited to pay him homage. They even allegedly raised slogans in the nature of releasing Umar Khalid and Sharjeel Imam from jail, who are facing trial for an offence under UAPA i.e. unlawful activities against the Nation. It was not the platform for raising such slogans. In other words, such slogans were not made in

a public agitation or procession. The Hon'ble Apex Court had been pleased to reject bail applications of Umar Khalid and Sharjeel Imam. Being students, it was expected from accused persons to respect the Law of Land.

15) Moreover, as stated above, G. N. Saibaba came to be acquitted by the Hon'ble High Court. However, nature of charges against him is the matter of record. He was said to be active member of the Front of CPI (Maoist), which was banned by the Government of India. In the written submissions filed by the accused persons, it is stated that, he was handicap and kept in jail for about 10 Years. The tenor of the submissions made by accused shows that, they are questioning or blaming the procedure followed by the Criminal Court. Certain procedure is to be followed for completing the criminal trial. Apart from various reasons including population – Judge ratio, heavy pendency before the Courts of Law, is one of the reason for delay in completing a criminal trial. He was in jail, because the trial was going on and ultimately the Trial Court had convicted him. In the appeal, he came to be acquitted. Even, this proceeding is one of the instance. Though, as per the Guidelines of the Hon'ble Apex Court of India, an application for pre-arrest bail is to be disposed off by the Court within six weeks, this Court could not follow the same in view of heavy pendency before it. The present application appeared to be filed on 15.10.2025. Nine months have already been passed. Such applications are taking much time for disposal, then criminal trial in serious offence bound to take much time.

16) Generally, while paying homage to deceased person, words “Rest in Peace” are mentioned or said or written. However, accused

persons have allegedly used words “Rest in **Power (1967- Forever)**”. By doing this, that too in the premises of college or institute and without permission of its administration, though, accused have not committed criminal offence but their act coupled with the fact of material found with accused Abhirup, certainly raises doubt about their, more particularly accused Abhirup, conduct, which suggested involvement in the alleged crime.

17) In the case of *Nitin* cited supra, the FIR was lodged against the accused by police officer. It was alleged that, the accused had written an article and circulated the same on WhatsApp. The article was titled as “भारतात पुन्हा नक्षलवाद पेटणार, देश वाचविण्यासाठी सशस्त्र क्रांतीची गरज”. In that article one slogan “जय भारत, जय संविधान, जय नक्षलवाद” was quoted. Observing that, because of the circulation of the said article, there was no disturbance of Law and Order or Public Peace, therefore it was held that, Section 153-A of IPC was not made out. Further, it was found that, there was no compliance of issuance of Notice under Section 41 of the Code of Criminal Procedure (Cr.P.C.). Moreover, the IO therein failed to made out any ground for arrest of the accused. Hence, anticipatory bail was granted to the accused. However, in the present case, notice under Section 35(3) of the BNSS was duly issued. Objectionable material were found in the laptop and the mobile phone of the accused Abhirup. Further, though the Hon’ble Apex Court had been pleased to reject bail applications of Umar Khalid and Sharjeel Imam, slogans were made to release them. The investigating agency has made out sufficient grounds for custodial interrogation of the applicant accused Abhirup. Therefore, he cannot take benefit of ratio laid down by the Hon’ble Bombay High Court.

18) In *Urvashi Chudawala's* case cited supra, the applicant accused identified as trans non-binary, is a part of various groups which advocate for the rights of trans gender community. She was founding member of the Thane Queer Collective. She had organized various event to create as safe space for persons belonging to trans gender community including cultural and social programs. She had participated in the peaceful gathering of persons supporting the cause of Lesbian, Gay, Bisexual Transgender, Queer and Intersex Community at the Azad Maidan on 01.02.2020. She had allegedly raised following slogans :-

1) CAA say Azadi, NRC se Azadi, Trans Act se Aazadi, Pyaar karneki ya na karne ki aazadi.

2) Rohit tere sapna ko hum manjil tak pahuchayange, Najib tere sapnoko hum manjil tak pahuchayenge, Fatima tere sapnoko hum manjil tak pahuchayenge, Muthukrishanan tere sapnoko hum manjil tak pahuchayenge, Sharjeel tere sapnoko hum manjil tak pahuchayenge, Ravan tere sapnoko hum manjil tak pahuchayenge, Paachu tere sapnoko hum manjil tak pahuchayenge, Alphonze tere sapnoko hum manjil tak pahuchayenge, Pravallika tere sapnoko hum manjil tak pahuchayenge, Tara tere sapnoko hum manjil tak pahuchayenge.

It was the case of the applicant accused that, video to that effect started being shared on social media platforms in complete disregard to the original context, in which the above slogans were raised. In that context, the Hon'ble Bombay High Court had been pleased to observe that, those slogans were raised by her to exhibit her solidarity with the persons who had been exercising their fundamental right to dissent. It was also observed that, she is student and actively involved in organizing rallies for supporting the cause of LGBTQ+. In that context,

Anticipatory Bail was granted to her. However, in the present case, the facts are altogether different. Without permission of the administration of college or institute, the accused persons gathered in the premises, paid homage to G. N. Saibaba and while doing so, in spite of having knowledge that, the Law of Land has denied bail to Umar Khalid and Sharjeel Imam, raised slogans to release them. It was not any public gathering or agitation raising any dissent in a public place. On the cost of repetition objectionable material was found in the laptop and mobile of the applicant accused Abhirup, suggesting division of Country. Therefore, he cannot take benefit of the ratio laid down by the Hon'ble Bombay High Court.

19) No doubt, mere downloading the books published by the Maoist Organization would not amount to an offence. However, in the present case during the course of investigation it is revealed that, the applicant accused Abhirup, not only downloaded the books but even attended several places as field work. Further, the books though not banned by the Government but reportedly instigating or aiding the division of India. In this background, custodial interrogation of the applicant accused Abhirup is very much necessary and expedient to ascertain his intention in downloading those books coupled with his intention in raising slogans for release of two persons, who are facing trial under UAPA and to whom the bail was denied by the Hon'ble Supreme Court of India. His custodial interrogation is also necessary to ascertain any link with the banned organization acting against the interest of India.

20) It has come on record that, the applicant accused Abhirup is the member of Progressive Student Forum, which is working against

the college administration and through that Forum pressure was put on the informant by giving false information through social media. Further, one of the prosecution witness was also reportedly threatened.

21) Considering the overall facts and circumstances on record, for extracting truth, custodial interrogation of the applicant accused Abhirup is necessary. Nature of certain material in the case diary is such that, interrogation thereon would be necessary. Therefore, no good or sufficient grounds are made out by the applicant accused Abhirup for grant of pre-arrest bail as claimed. Hence, prayer in the application to that extent needs no consideration and liable to be rejected.

22) So far as, applicant accused Nikita Dsouza is concerned, it is alleged that, she was present on the spot of incident at the relevant time and took active participation in the alleged program. Except this no other allegations are there against her. No incriminating material appeared to be found in her possession. Earlier, she has co-operated the investigating agency. Further, interest of the investigating agency would be protected by imposing conditions. Therefore, her prayer for grant of pre-arrest bail needs consideration.

23) For the reasons stated above, the application in part needs consideration. Accordingly, I proceed to pass the following order :-

1. Anticipatory Bail Application **No.2071 of 2025** is partly allowed.
2. The prayer for grant of pre-arrest bail by applicant accused No.1 **Abhirup Paul** is hereby rejected.
3. In the event of arrest of applicant accused No.2 **Nikita Monica Dsouza** in connection with Crime No.464/2025 registered with

Trombay Police Station, Mumbai (Crime No.107/2025 registered with CID Unit-6, Mumbai) for an offence punishable under Sections 189(2), 190, 192, 196, 197, 223 and Section 61(2)(a) of the BNS and Sections 37(1)(a), 37(3) and 135 of the Police Act, she be released on bail on her executing PR bond of **Rs.25,000/- (Rupees Twenty Five Thousand)** with one surety in the like amount, to the satisfaction of the Ld. Investigating Officer, subject to the following conditions :-

(i) She shall co-operate the investigating agency and attend the CID Unit 6, Chembur (East) Mumbai as and when required by the Ld. Investigating Officer under written intimation.

(ii) She shall not directly or indirectly induce, threaten, or pressurize any person acquainted with the facts of the case to prevent them from disclosing such facts to the Investigating Agency and to the Court.

(iii) She shall not leave India without prior permission of the Ld. Trial Court.

4. **Anticipatory Bail Application No.2071 of 2025 is disposed off accordingly.**
5. Inform all the concerned.

Date: 07.08.2026

Directly typed on

Computer : 07.08.2026

Signed on : 07.08.2026

(V. B. BOHRA)
Additional Sessions Judge
Court No.27
City Civil and Sessions Court
Gr. Mumbai

<u>“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”</u>		
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07.08.2026	12.05 PM	
Name of the Judge (With C.R. No.)		HHJ Shri V. B. Bohra (C.R.No. 27)
Date of Pronouncement of JUDGMENT /ORDER		07.08.2026
JUDGMENT /ORDER signed by P.O. on		07.08.2026
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