

# Naushad Idris Khan vs State Of Maharashtra And Anr on 8 March, 2022

**Author: Prakash D. Naik**

**Bench: Prakash D. Naik**

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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.3181 OF 2021

Naushad Idris Khan  
versus  
The State of Maharashtra and another

Mr.Mateen Shaikh with Arshad Shaikh, Rafique Shaikh and N  
Shaikh for applicant.  
Mr.Arfan Sait, APP, for State.  
Mr.Prashant Langi, Investigating Officer, Uttan Police St  
present.

CORAM : PRAKASH D. NAIK,

DATE : 8th March 2022

PC :

1. This is an application for anticipatory bail in R  
registered with Uttan Sagari Police Station for offence u  
328 r/w 34 of Indian Penal Code and under Sections 41, 88  
Safety and Standards Act, 2006.

2. Previous application preferred by the applicant wa  
vide order dated 26th February 2021. Learned counsel for  
submit that previous application was withdrawn. Section 3  
is not applicable. The applicant has good case on merits.  
evidence to show involvement of applicant in crime. The H

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Supreme Court has granted relief of no coercive action in

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matters, copies of which are annexed to this application.  
dated 17th September 2021 passed by this Court in Anticip  
Application No.2236 of 2021 refusing to grant anticipator  
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similar case has been challenged before Supreme Court and interim  
relief has been granted by Supreme Court on 13th January 2021.

3. Learned APP submitted that first application preferred by the  
applicant was rejected by this Court on 26 th February 2021. Since  
last one year the applicant is absconding. It is further submitted that  
this Court by order dated 24th March 2021 passed in ABA No.483 of  
2021 has taken note of the submissions advanced by learned  
advocate for applicant in the said application including the  
submission that Section 328 of IPC is not attracted in such cases and  
said application has been rejected by order dated 24 th March 2021.  
It is further submitted that this Court has rejected similar contention  
in ABA No.1405 of 2021 and group of matters vide order dated 23 rd  
December 2021. Learned APP submitted that while rejecting the said  
applications, the order dated 24th March 2021 passed by this Court in  
ABA No.483 of 2021 as well as several other decisions were referred  
to and submit that Section 328 of IPC is not attracted, has been  
rejected.

4. It is pertinent to note that applicant has been evading arrest  
since long. Vide order dated 26th February 2021 the previous  
application for anticipatory bail preferred by applicant was disposed  
of. The order indicate that applicant was argued and the Court was  
not inclined to grant relief. In such circumstances learned advocate  
for applicant had sought permission to withdraw application and the  
request was granted. After lapse of one year the applicant has again  
moved present application. The issue relating to non applicability of  
Section 328 of IPC in case of present nature was dealt with by this  
Court vide order dated 24th March 2021 in ABA No.483 of 2021 and

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subsequently by order dated 23 rd December 2021 in ABA No.1405 of  
2021 and group of applications. Hence, no case is made out for  
entertaining this application. Hence, I pass following order :

ORDER

(i) Anticipatory Bail Application stands rejected.

(PRAKASH D. NAIK, J.) MST