



Jus Corpus Law Journal

Open Access Law Journal – Copyright © 2024 – ISSN 2582-7820
Editor-in-Chief – Prof. (Dr.) Rhishikesh Dave; Publisher – Ayush Pandey

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Case Comment: Priya Indoria v State of Karnataka and Ors – ‘Pioneering Transit Anticipatory Bail for Out-of-State FIR’

Aiswini R Pillai^a

^aLloyd Law College, Greater Noida, India

Received 03 September 2024; *Accepted* 05 October 2024; *Published* 09 October 2024

INTRODUCTION

Priya Indoria v the State of Karnataka¹ was one of the landmark cases handled by the Hon’ble Supreme Court when awarding anticipatory bail for out-of-state FIR. Furthermore, the Apex Court has viewed the wide interpretation and enforcement of section 438 of CrPC² while dealing with bail procedures³. The key concern of the case was about the Trial Court’s and High Court’s Jurisdiction while dealing with anticipatory bail. This was a highly spotlighted case in the matter of bail for out-of-state FIR and it also questioned the jurisdictional authority thus, the case came forward and questioned the validity of the law in the matter, giving a new dimension to bail panorama. The case has a huge influence and impact on future judgements and it gave a

¹ *Priya Indoria v State of Karnataka* (2023) INSC 1008

² Code of Criminal Procedure 1973, s 438

³ Ifrah Murtaza, ‘The Apex Court Explored The Interpretation And Application Of Section 438 Of Crpc & Examined The Situation Where Anticipatory Bail Is Sought In A Jurisdiction Other Than Where The FIR Was Lodged In Priya Indoria V State Of Karnataka & Ors’ (*Lawyers Club India*, 24 November 2023)

<https://www.lawyersclubindia.com/judiciary/the-apex-court-explored-the-interpretation-and-application-of-section-438-of-crpc-examined-the-situation-where-anticipatory-bail-is-sought-in-a-jurisdiction-other-than-where-the-fir-was-lodged-in-priya-indoria-v-state-of-karnataka-ors-7034.asp>> accessed 25 June 2024

clarification on the law and set to become as a precedent. The case also upheld women's rights and other specific rights. Potentially speaking, the case and the judgment reshaped the panorama of Criminal Law. Section 438 of the Code of Criminal Procedure⁴ is the dominant section of the case, this provision explicitly explains the application of anticipatory bail and maintained the territorial integrity, furthermore what are the Court's discretionary powers in this matter were also mentioned, and the existing conditions. This notable case upholds the history of the matter of FIRs filed outside state jurisdiction, generally, when an FIR is filed in a particular state for getting anticipatory bail, the accused approaches the court of that state itself. The complexity of strict compliance to territorial jurisdiction makes it disadvantageous to the accused, especially when he resided in a different state, in this case, the court made a new history to the context. The basic right given to personal liberty under Article 21⁵ was upheld, the Court is ensuring that the liberty of a person is not curtailed without due process of law by granting anticipatory bail and also not compromising liberty due to jurisdictional technicalities.

FACTS OF THE CASE

On 11th December 2020, the complainant and the accused got married by Hindu tradition. Post-marriage, they were residing in Bengaluru. The father of the complainant-wife spent an amount of Rs.46,00,000 on the wedding, but the accused husband and his family demanded more money in the name of dowry. From the day of marriage itself, the accused was facing domestic violence, torture, and harassment as her family didn't fulfil the dowry demands. He threatened divorce and physically abused them even when she was suffering from COVID-19, he questioned her capability as a good wife as she wasn't satisfied and fulfilled to be a good wife both mentally and physically.

On 2nd June 2021, she was expelled from her matrimonial home and she went to her paternal. In November 2021, the husband filed a divorce petition before the Bengaluru Family Court. On 09.12.2022, a request was made before the Apex Court by the complainant-wife for the movement of the case from Bengaluru to Chirawa, Rajasthan, which was approved by the Apex Court. On 25TH January 2022, she filed a complaint as FIR in a police station in Rajasthan under

⁴ Code of Criminal Procedure 1973, s 438

⁵ Constitution of India 1950, art 21

section 498A⁶, 406⁷, 323⁸ of the IPC, which deals with cruelty made to a woman by her husband and in-laws, criminal breach of trust by use of property dishonestly, causing hurt to an individual voluntarily respectively, but the accused and his family members got anticipatory bail under section 438 of CrPC⁹ by Additional City Civil and Sessions Judge, Bengaluru while the complaint was filed in Rajasthan. The reasoning given by the judge was the accusation was not yet proven and hence, there was no reason not to grant anticipatory bail. The complainant-wife filed a Writ Petition, which was dismissed as withdrawn on 17.02.2023, with the liberty to pursue her legal remedies¹⁰ and thus challenged the anticipatory bail and filed a Special Leave to Appeal. The Hon'ble Supreme Court focused on the jurisdiction of lower courts to grant anticipatory bail for out-of-state FIRs. The Apex Court overviewed the issue and gave a landmark decision on the matter of bail, especially when it is out of jurisdiction. The Judge emphasised that the courts can entertain out-of-state FIR matters and grant anticipatory bail even outside the scope of territorial integrity carefully.

ISSUES OF THE CASE

1. Whether the high court or the sessions court has the jurisdiction to handle the matter of out-of-state FIR and grant anticipatory bail under section 438 CrPC.
2. Is it consistent with the principles of criminal justice to grant interim protection or transit anticipatory bail to applicants seeking anticipatory bail?
3. Is it necessary to hold the venue of the trial in the court where the separated wife (complainant) resides?

ARGUMENTS

APPELLANT'S CONTENTION

The appellant side emphasised the jurisdiction in bail matters as the place of action occurred in several places the question of jurisdiction arises from the ambiguity in granting bail. Since the

⁶ Indian Penal Code 1860, s 498 A

⁷ Indian Penal Code 1860, s 406

⁸ Indian Penal Code 1860, s 323

⁹ Code of Criminal Procedure 1973, s 438

¹⁰ *Priya Indoria v State of Karnataka* (2023) INSC 1008

provision of bail mentioned in Section 438 of CrPC¹¹ explicitly doesn't mention extra-territorial anticipatory bail. The ambiguity regarding the granting of anticipatory bail having extraterritorial jurisdiction was highlighted and whether only the specified courts dealing with the matters can grant such bail or if any other High Court and Session Court in the country can exercise this power was also contented¹². The distinction between transit bail and anticipatory was also mentioned. To support their contention, some of the precedents, like *Amarnath Jogi v State of Jharkhand*¹³, this case mentioned that the accused was arrested out of his home state, it mentioned protecting individuals and their rights in out-of-state FIR and in the case of *State of Assam v Brojen Gogol*¹⁴ also the court ensured that the liberty of an individual should not be curtailed and compromised by jurisdictional and territorial integrity and complexities were referred which highlighted the adoption of the transit bail approach and gave a flexible approach to deal with cases having multiple jurisdictions. To present the impact caused on the right mentioned under Article 21 due to the liberal interpretation of granting anticipatory bail, the case of *Nathu Singh v State of UP*¹⁵ was referred. The cause of action theory was referred to with the help of *Navinchandra Majithia v State of Maharashtra*¹⁶, the theory explained the specified facts, which sprouted a legal claim, in this case, the Apex Court examined that the allegations made against the accused have a reasonable cause to action to validate proceedings. This was linked in the present case, where the origin of the cause of action took place in Bengaluru and time by time it happened in Rajasthan. Hence, any one of the respective courts may exercise its power in this case. The fundamental right to a fair and impartial trial was also highlighted.

RESPONDENT'S CONTENTION

The respondent counsel contended that all the allegations made by the wife-complainant regarding harassment and violence and the FIR are false in nature. The complainant intended

¹¹ Code of Criminal Procedure 1973, s 438

¹² 'Saumya Raj, 'Priya Indoria V/S State Of Karnataka & Ors,2023' (Legal Vidhiya, 09 December 2023) <<https://legalvidhiya.com/priya-indoria-v-s-the-state-of-karnataka-ors-2023/>> accessed 25 June 2024

¹³ *Amarnath Jogi v State of Jharkhand* (2020) SCC OnLine SC 502

¹⁴ *State of Assam v Brojen Gogol* (2017) 10 SCC 690

¹⁵ *Nathu Singh v State of Uttar Pradesh* (2006) 4 SCC 455

¹⁶ *Navinchandra Majithia v State of Maharashtra and Ors* (2000) 7 SCC 640

to take money from his husband and his family. The demand of 50,00,000 made by the complainant proves that her motive was to take money and to accuse the respondent falsely. A person who was roaming free cannot be arrested just by the false accusations, seeing his liberty was in danger and also the allegations put upon him were not true in nature thus, the accused-husband moved for urgent anticipatory bail in the Bengaluru Court. Moreover, the complainant's threatened him several times during COVID-19. The delay made by the complainant-wife in registering the complaint was highlighted to show that the accusations were false. The place of action of the harassment was in Bengaluru despite not filing there, she moved to Chirawa station as she had connections and the delay in time frame explicitly shows she wanted to extort money and falsely accuse the respondent and his family.

The counsel for the state relied heavily on the judicial precedents regarding section 438 of the Code of Criminal Procedure¹⁷ for their contentions. In the case of *Ragubans Dubey v State of Bihar*¹⁸, the Hon'ble Apex Court made its verdict that a Magistrate considers the crime in itself, not the accused person and while contenting the matter of jurisdiction, the counsel referred the case of *Dashrath Rupsing Rathod v State of Maharashtra*¹⁹, where the Supreme Court, relied on the fact that the normal procedure of investigation and trial of crimes by a respected court is where the crime happened.

The roles and responsibilities of the Magistrate and Court based on their jurisdiction were mentioned in the second chapter of the Code of Criminal Procedure²⁰. The Jurisdiction of Local Magistrates are mentioned under Section 14 of CrPC²¹. The authority to make all the decisions and even to grant bail vest in the Court where the Crime took place and the Magistrate who has the authority to take the matters of specific case and trial can grant bail. If the High Court or Court of Session doesn't have jurisdiction over the territorial jurisdiction of crime, then they cannot grant such pre-arrest anticipatory bail under section 438 of the CrPc²².

¹⁷ Code of Criminal Procedure 1973, s 438

¹⁸ *Ragubans Dubey v State of Bihar* (1966) 2 SCR 1043

¹⁹ *Dashrath Rupsing Rathod v State of Maharashtra* (2014) 9 SCC 129

²⁰ Code of Criminal Procedure 1973

²¹ Code of Criminal Procedure 1973, s 14

²² Code of Criminal Procedure 1973, s 438

JUDGEMENT AND RATIONALE

The Hon'ble Supreme Court held that the Courts can grant transit anticipatory bail for out-of-state filed FIR, but to ensure the court has to deal with the case very carefully and the court can exercise this power only in exceptional situations, giving special emphasis to facts and other circumstances. The court further explained that if the FIR is not filed within the jurisdiction of the High Court or the Sessions Court, the court should consider granting transit anticipatory bail at least as it is an interim protection, and the accused can move forward and approach the court for full, anticipatory bail. The court stated that rejecting bail applications only on the basis of territorial complexity adds a hindrance to Section 438 of CrPC.²³

The court held that in the impugned order of the High Court, it was held that the dismissal of the anticipatory bail request was due to the severity of the offence. The grant of bail protection for 90 days was considered as too long as the decision was made without considering the related facts. Giving in the hands of the investigating agency, the impugned order was set aside²⁴, for this, the view of *Rupali Devi v State of UP*²⁵ was applied and also it was ruled in the case that if a wife due to cruelty in her matrimonial home is forced to leave or leaves by herself, the place she finds shelter can also become the place of jurisdiction to deal her complaint under section 498-A of the IPC²⁶. To ensure true justice, the court ordered that no coercive actions must be taken against the accused for four weeks and by that time, the accused can seek anticipatory bail from Chirawa Court or the High Court of Rajasthan.

The court also deeply looked into section 438 of CrPC²⁷ and stated that since the High Court and the Court of Session are not limited, it doesn't allow the accused to do the crime in one state and approach another court to seek anticipatory bail, it can be executed by the accused only if at the time of filing the FIR he must be legitimately present in the other state. However, the accused cannot be granted complete anticipatory bail in the state where he is residing but can approach the court for transit anticipatory bail in their home state. Since the transit bails are temporary,

²³ *Ibid*

²⁴ *Priya Indoria v State of Karnataka and Ors* (2023) INSC 1008

²⁵ *Rupali Devi v State of Uttar Pradesh* (2006) 4 SCC 503

²⁶ *Priya Indoria v State of Karnataka and Ors* (2023) INSC 1008

²⁷ Code of Criminal Procedure 1973, s 438

the accused has to move to the court where the FIR was filed to get full and regular anticipatory bail²⁸.

The court also emphasised several provisions as section 48 of CrPC states the power that police have been granted to arrest the accused without a warrant in India, and for excess jurisdictional arrest, they must get prior permission to produce the arrested person in the exact jurisdiction. The courts, while dealing with cases of anticipatory bail, must be careful, especially when there are multiple places of the cause of action. The court has to observe and not reject the plea and bail only on the basis of multiple jurisdictions. Supreme Court also highlighted that while giving justice to the victim, the rights of the accused must be protected parallelly. Both Article 14 and Article 21 must be protected. Further, while delivering the judgement, the Supreme Court also gave meaning to the word Transit, which is derived from the Latin word 'transitus', which means moving from one place to another and the Oxford English Dictionary and Black's Law Dictionary definitions of the word.

ANALYSIS OF THE JUDGEMENT

In tough situations, anticipatory bail works as an aid that changes the aspect of law and order in society, and it helps the person to fight for his own justice if he has been falsely accused and can protect his liberty. A distinction must be made between the authority of granting bail before arrest and the power to deal after the official recognition of crime. The power of granting anticipatory bail is mainly done to avoid getting arrested for a non-bailable offence and in the case of the power of dealing with it afterwards, it involves sections 437²⁹ and 439³⁰, which deal with bail on non-bailable offences and the power of the competent courts, respectively. Article 21 is being upheld the Court is ensuring that the liberty of a person is not curtailed without due process of law by granting anticipatory bail and also not to compromise liberty due to jurisdictional technicalities. It gave authority to High Courts and Session Courts to grant anticipatory bail. Anticipatory bail serves as a protective tool against illegal and unwanted arrests and related consequences. It serves as a protective measure to those who were falsely

²⁸ *Ibid*

²⁹ Code of Criminal Procedure 1973, s 437

³⁰ Code of Criminal Procedure 1973, s 439

accused and to get a broad light on justice whereby, misinterpreting, the actual criminals are being set free in many instances, but injustice cannot be made against a person based on presumption. Section 438 of CrPC was heavily emphasised, as it deals with bail provision. Before granting transit anticipatory bail, certain conditions have been implemented by the court, some of the highlighted conditions are:

- The requirement of notice before granting the transit anticipatory bail to the investigating officer and the public prosecutor where the FIR was filed.
- The inability to appear in the court where the complaint was filed must be convinced by the accused to the court.
- The High Court and the Court of Session jurisdiction were made flexible to handle the cases of granting anticipatory bail to out-of-state filed FIRs only in exceptional circumstances.
- The court can review international cases to support the constitutionality.

CONCLUSION

In conclusion, the jurisdictional nuances of anticipatory bail were extensively discussed in this case. The Supreme Court mentioned that there are no set or limited boundaries for the High Court and the Court of Session This case was set as a landmark case for section 438 of CrPC. This case gave the court a thorough light that the Court and the Learned Judges can use certain exceptional powers in exceptional circumstances and it must be used judiciously. It upholds the real essence of preserving equilibrium between the Accused's Rights and the notion of justice, equity and good conscience. It also sets an example for future cases for a similar cause of action. This case has given special focus to the liberty of an individual, and it mentioned not to curtail and compromise the liberty of an individual. It allowed Courts to exercise their power more judiciously and carefully and to not restrict justice on the sole basis of jurisdictional complexities.