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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 1781 OF 2026

Zakir Ali Khan

...Applicant

V/S.

The State Of Maharashtra

...Respondent

Adv. Arun Mishra a/w Mukta Mishra, Arpita Mishra, for the Applicant.

Adv. Babu V. Holambe, APP for the Respondent – State.

**CORAM : PRAFULLA S. KHUBALKAR, J.
DATE : 30TH SEPTEMBER, 2026.**

P.C. :-

1. Heard learned counsel for the applicant as well as learned APP for the respondent-state.
2. Apprehending arrest in connection with Crime No. 1467 of 2025 dated 17.12.2025 registered with Ghatkopar Police Station, Brihanmumbai, for the offence punishable under Sections 90 and 105 read with Section 3(5) of Bharatiya Nyaya Sanhita (BNS), 2023, the applicant has filed the instant application under Section 482 of Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023.
3. The FIR is registered on the basis of a report lodged by the Police Sub-Inspector alleging that during the period from 24.09.2025 to 29.09.2025, a lady by name Alia Chand Sayyad, aged 22 years was admitted

in Galaxy Hospital when she was six months pregnant. It is alleged that without her consent, her husband caused her abortion which was performed by Dr. Mehtab Jakir Ali Khan. It is alleged that since there was some infection in her abdomen she was taken to another hospital by name S. N. Hospital, Gowandi, Mumbai for surgery wherein she was given further treatment. It is alleged that when Alia was examined by the Doctors at S. N. Hospital, it was revealed that certain articles of the undeveloped foetus were left inside her stomach, which had developed complications, deteriorating her health and resultantly on 29.09.2025 Alia had expired. It was found that the abortion of Alia was performed by Dr. Mehtab Jaker Ali Khan in the Galaxy Hospital, who was not possessing any medical degree and was still allowed to perform operations by Galaxy Hospital. On the basis of these allegations, the FIR came to be registered against Mr. Mehtab Jaker Ali Khan and Rizwan Niyazahamad Shaikh, who is husband of deceased Alia.

4. Adv. Arun Mishra, learned counsel for the applicant submitted that this applicant is not named in the FIR. He submitted that the charge sheet is filed against other accused persons and there is nothing to show that this applicant has played any role at the time when the deceased Alia was operated upon in the Galaxy Hospital. He submitted that this applicant was not present at the hospital at the relevant time and has even no knowledge about the incidence. He submits that only because this applicant happens to have a Leave and License Agreement of the Hospital in his name, he is

sought to be implicated in the offence. He therefore submitted that there is no need for custody of this applicant and prayed for grant of anticipatory bail.

5. Per contra, Adv. Bapu V. Holambe, learned APP for the respondent vehemently opposed the application and submitted that there is ample evidence to show that this applicant had entire control and management of Galaxy Hospital, where the illegal abortion was conducted by Mr. Mehtab. He submitted that Mr. Mehtab does not have any medical degree and in fact he is a student of third-year MBBS. It is submitted that the applicant had allowed Mr. Mehtab who is his son, to carry out the operation of the deceased, in his hospital which has resulted into complications ultimately resulting in her death. By inviting attention to the statement of the nurse in Galaxy Hospital by name Shirin Mohmad Ramzan Khan, it is submitted that she has categorically stated that Mr. Mehtab has performed the operation upon the deceased Alia. By inviting attention to statement of Mr. Mehtab Jakir Ali, he submitted that he has specifically stated that he is a student of third-year taking online education from Asian International Medical University, Tashkent, Uzbekistan. Apart from this, by pointing out the leave and license agreement, he submitted that this applicant is having entire control and management of the Galaxy Hospital and thus there is sufficient evidence to show his involvement in the offence.

He therefore submitted that although charge sheet is filed against the

accused persons, further investigation has to be conducted against this applicant and his custody is required.

6. Learned APP also submitted that the applicant has suppressed his criminal antecedents since an FIR No. 1271 of 2022 for the offence punishable under Section 304 of Indian Penal Code (IPC), 1860 with other offences is already registered against this applicant which is an offence of running a nursing home illegally by this applicant along with his son Mr. Mehtab, where on account of an operation performed on a pregnant lady, a new born baby girl had died. He therefore prayed for rejection of the application for failure to disclose the criminal antecedents and in this regard placed reliance on the judgment of Hon'ble Supreme Court in the matter of ***Zeba Khan Versus State of Uttar Pradesh*** reported at ***2026 SCC Online SC 188***.

7. Perused the FIR and the documents placed on record, which form part of the charge sheet. Although the applicant has contended that he has not done any overt act, it is crucial to note that the entire incidence of illegal abortion has taken place at Galaxy Hospital, which is in the control and supervision of this applicant. The document of leave and license agreement dated 10.08.2024 clearly shows that the premises were taken by this applicant as licensee to run Galaxy Hospital. Thus, it *prima-facie* appears that the applicant had got the control and management of Galaxy Hospital. As such, the applicant was duty bound to ensure that the hospital is

being run by complying with all the statutory requirements and by engaging qualified medical practitioners and nurses. It is revealed during the investigation, as can be seen from the statement of Mr. Mehtab that he is not a qualified Doctor. Thus, since the illegal abortion was done in Galaxy Hospital which is under control of this applicant, it cannot be accepted that the applicant has no connection with the offence in question. During the investigation it was revealed that Mr. Mehtab Zakir Ali Khan, who has performed the illegal operation is son of this applicant and he was allowed to conduct operations even though he is not medically qualified. It is revealed that this applicant has allowed the illegal operations to be conducted in his hospital, as can be seen from similar offence vide FIR No. 1271 of 2022 which was earlier registered against this applicant and his son Mr. Jakir Ali Khan.

8. It has to be noted that the investigating agency has conducted a thorough investigation and a charge sheet is filed against the other accused persons. The investigation *qua* this applicant is not completed and no charge sheet is filed against this applicant. On perusal of the statement under Section 183 of BNSS of the nurse by name Shirin it *prima-facie appears* that an illegal abortion was conducted in the Galaxy Hospital which has resulted into death of the patient. Thus the offence is very serious in nature and its gravity needs to be considered while considering the applicant's prayed for anticipatory bail.

9. Pertinent to note, this applicant is having control and supervision over the establishment of Galaxy Hospital. The material evidence related to the offence, being the records of the Hospital, statements of witnesses and other material evidence are likely to be manipulated by this applicant. As such, the apprehension expressed by the prosecution regarding influencing the witnesses or tampering with the evidence merits consideration. Considering the nature of offence, I am of the considered opinion that the applicant may try to influence and pressurize the witnesses.

10. It is also crucial to note that the applicant has suppressed the criminal antecedents bearing FIR No. 1271 of 2022 which is an offence with respect to death of an infant after the operation by Mr. Mehtab. Since the applicant has failed to disclose on affidavit this FIR, as required by judgment of Hon'ble Supreme Court in judgment of ***Zeba Khan Versus of State of Uttar Pradesh*** reported at ***2026 SCC Online SC 188*** it amounts to suppression of the criminal antecedents on the part of the applicant.

11. On consideration of the prosecution case it is clear that the offence in question is serious in nature. The offence has occurred in Galaxy Hospital, which is in the entire control of this applicant. Considering the dominant position of the applicant in the hospital, who is likely to influence the witnesses, I am of the firm opinion that anticipatory bail if granted to the applicant would be grossly abused and therefore, the application deserves to be rejected.

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12. Hence, for all the above reasons, the instant application for Anticipatory Bail is rejected.

(PRAFULLA S. KHUBALKAR, J.)