

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

21 ANTICIPATORY BAIL APPLICATION NO.41 OF 2021

**SATYAVAN MAKARDVAJ SHINDE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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**Advocate for Applicant : Undre Vikram S
APP for Respondent State: S.W.Mundhe**
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**CORAM : MANGESH S. PATIL, J.
DATE : 01.02.2021**

PC. :-

This is an application under Section 438 of the Cr.PC.

2] The F.I.R. has been lodged on 21/2/2020 by a married woman making a grievance that she was receiving G.I.F. and other pictures which were sexually explicit on her mobile phone from an unknown phone number. Accordingly crime was registered as Crime No.38/2020 at Paranda Police Station, Dist. Osmanabad for the offences punishable under Sections 354, 354-D and 507 of the I.P.C. and Section 67-A of the Information Technology Act.

3] The learned Advocate for the applicant submits that the applicant is innocent. He does not possess the phone number from which the informant received the objectionable messages. He is ready to cooperate the Investigating Officer. His custodial interrogation is not necessary and he may be granted anticipatory bail.

4] The learned A.P.P. opposes the application. He submits that the offence is serious and punishable upto 7 years of imprisonment. The investigation is in progress. There is a specific statement of the brother of the informant identifying the phone number being used by the applicant. The cell phone will have to be recovered and therefore, applicant's custodial interrogation is necessary.

5] I have carefully gone through the papers. At the outset it is necessary to note that the offence has been registered almost more than 11 months ago. Still the papers of investigation do not indicate about the Investigating Officer having carried out some material investigation more so, when the offence is committed by way of transmission of electronic messages from one mobile to the other. The Investigating Officer does not seem to have independently verified from the relatives of the applicant as to if really he was using that phone number. Again, the Investigating Officer does not seem to have verified from the mobile phone of the informant and her brother to ascertain and verify their version that really she was getting the messages from that specific number and being the friend of her brother, the latter was also getting communication from that number.

6] All in all, except the statements in the F.I.R. and the statement of informant's brother there is no material to show that the applicant was using that phone number. Similarly, there is no material to reveal that the Investigating Officer has made any endeavour to contact the service provider to identify the owner of the sim card.

7] Considering the nature of the crime and all the aforementioned facts

and circumstances, the applicant deserves to be granted bail subject to usual conditions.

8] Application is allowed.

9] In the event of arrest of applicant in connection with Crime No.38/2020 registered at Paranda Police Station, Dist. Osmanabad for the offences punishable under Sections 354, 354-D and 507 of the I.P.C. and Section 67-A of the Information Technology Act, he shall be released on bail on his executing personal recognizance for an amount of Rs.25000/- (Rs.Twenty five thousand only) and furnishing a solvent surety in the like amount subject to following conditions :

a] He shall attend the concerned Police Station on 3 Fridays commencing from 5 February 2021 between 11 a.m. and 1 p.m. and shall cooperate the Investigating Officer.

b] He shall not tamper the evidence or influence the witnesses.

[MANGESH S. PATIL, J.]

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