

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

**49 BAIL APPLICATION NO.1116 OF 2021**

1. Kailas s/o Vijay Singh @ Raj Purohit  
Age: 29 years, Occu.: Labour,  
R/o. Rameniya, Tq.Shivana,  
Dist.Badner, State of Rajasthan.
  2. Ishwar s/o Hanumanrama Patel  
Age: 25 years, Occu.: Labour,  
R/o. Rameniya, Tq.Shivana,  
Dist.Badner, State of Rajasthan.  
At present : Kudithini, Tq. & Dist.Ballari,  
State of Karnataka.
- ..Applicants  
(Orig. Accused)

VERSUS

The State of Maharashtra  
Through Police Station Officer,  
Peth Beed P.S., Tq. & Dist.Beed.

..Respondent

...  
Advocate for Applicants : Shri Vilas P. Savant  
APP for Respondent : Shri S.D.Ghayal

...  
**CORAM : M.G.SEWLIKAR, J.**

**DATE: 25<sup>th</sup> October, 2021**

**PER COURT:-**

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicants on bail in connection with Crime No.122 of 2021, registered with Peth Beed Police Station, Dist.Beed, under Sections 354, 354D, 506, 507, 384 read with Section 34 of the Indian Penal Code and under Sections 67, 67A of the Information of Technology Act,

2. It is alleged in the FIR that prosecutrix aged 21 years is a married woman. About six months before her marriage, she got acquainted with applicant No.1 on social media i.e. Facebook. They started chatting on Facebook. Applicant No.1 used to see the photographs uploaded by the prosecutrix on Facebook. Thereafter, applicant No.1 started blackmailing prosecutrix. Because of his blackmailing, prosecutrix had transferred amount of Rs.10,000/- on 7<sup>th</sup> June, 2021, Rs.5,000/- on 16<sup>th</sup> June, 2021 and Rs.48,000/-. In this manner, she transferred Rs.63,000/- in the Account No.38244397280.

3. It is further alleged that on 6<sup>th</sup> July, 2021 at 10:00 a.m. father-in-law of the prosecutrix received indecent photographs and videos of the prosecutrix. Father-in-law showed her photographs and videos to her. Prosecutrix told her father-in-law that applicant No.1 was her friend and she was not on talking terms with applicant No.1 after her marriage. Applicant No.1 again had called up father-in-law of the prosecutrix and had told him that prosecutrix and applicant No.1 had love affair and had threatened that he would make her photographs viral. Therefore, prosecutrix lodged FIR on 8<sup>th</sup> July 2021, on the basis of which applicant No.1 and applicant No.2 came to be arrested.

4. Heard Shri V.P.Savant, learned counsel for the applicants

and Shri S.D.Ghayal, learned APP for the respondent-State.

5. Shri Savant, learned counsel for the applicant submitted that prosecutrix has transferred amount in the account of applicant No.2. It was done at the instance of applicant No.1. He submits that name of applicant No.2 is not there in the FIR. From the FIR, role of applicant No.2 cannot be discerned. FIR does not show that prosecutrix was aware that she was transferring the amount in the account of applicant No.2. Therefore, applicant No.2 has no concern with the alleged offence.

6. Shri Ghayal, learned APP for the respondent-State submits that applicant No.1 has, after marriage of prosecutrix, sent indecent photographs and videos of the prosecutrix to her father-in-law. He submits that therefore applicant No.1 is not entitled for bail as charge-sheet is still not filed. He further submits that applicant No.2 did not raise any grievance about transfer of the said amount to his account. That shows his complicity in the offence.

7. So far as applicant No.1 is concerned, there is evidence to show that applicant No.1 had sent indecent photographs and videos of the informant to the father-in-law of the prosecutrix. Not only that he had forced her to transfer an amount of

Rs.63,000/- in the account of applicant No.2. There is nothing on record to show that prosecutrix and applicant No.2 had any financial dealings nor there is anything on record to show that applicant No.2 committed any act so as to attract offence under Section 354, 354D or any other offence registered under this crime. In this view of the matter, so far as applicant No.2 is concerned, practically, there is no evidence to show that he had extorted prosecutrix. Considering role of applicant No.1, he is not entitled to be released on bail pending charge-sheet. In view of this, following order is passed:

**ORDER**

- i) Bail Application is partly allowed.
- ii) Application of applicant No.1 is rejected.
- iii) Applicant No.2 - Ishwar s/o Hanumanrama Patel be released on P.R.Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.122 of 2021, registered with Peth Beed Police Station, Dist.Beed, under Sections 354, 354D, 506, 507, 384 read with Section 34 of the Indian Penal Code and under Sections 67, 67A of the Information of Technology Act, and on condition that he shall not pressurize witnesses, shall not tamper the evidence and shall remain present before the Investigating Officer as and when required by him to do so.
- iv) Bail Application is disposed of.

v) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

**( M.G.SEWLIKAR )**  
**JUDGE**

SPT