

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

ANTICIPATORY BAIL APPLICATION NO. 2495 OF 2019

Vishal Baburao Shinde	 Applicant
versus	
The State of Maharashtra	 Respondent

**WITH
INTERIM APPLICATION NO.10 OF 2020
IN
ANTICIPATORY BAIL APPLICATION NO. 2495 OF 2019**

Dhanashree Mayur Shinde	... Intervener
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IN THE MATTER BETWEEN

Vishal Baburao Shinde	 Applicant
versus	
The State of Maharashtra	 Respondent

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Mr. Sanjeev Kadam a/w Mr. Pradip Kotkar a/w Mr. Sachin R. Pawar, Advocate for Applicant.

Ms. J. S. Lohokare, APP for the State/Respondent.

Mr. Ravindra S. Pachundkar, for Intervener.

Mr. S. S. Lokhande, A.P.I., Loni Kalbhor Police Station, Pune.

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**CORAM : SARANG V. KOTWAL, J.
DATE : 15th FEBRUARY, 2021**

P.C. :

. The applicant is seeking anticipatory bail in connection
with C.R.No.395/2019 registered at Loni Kalbhor Police Station,

Pune (Pune Rural) under Sections 313, 506 read with 34 of Indian Penal Code.

2. Heard Mr. Ravindra Pachundkar, learned Counsel for the original first informant who has filed Interim Application No.01/2020 in A.B.A. No.2495/2019, Mr. Sanjeev Kadam, learned Counsel for the applicant and Ms. J. S. Lohokare, learned APP for the State.

3. The F.I.R. is lodged by the first informant who has made allegations against her husband's brother Amit and cousin Vishal that they had caused miscarriage against her wish. Vishal is the present applicant. She has stated in her F.I.R., that, she was residing at Dattanagar Wadaki with her husband Mayur, brother-in-law Amit, Mayur's parents and Amit's wife. The informant's husband Mayur has a medical store. She had married with Mayur on 24th December 2014. Initially, everything was well between the couple. In April 2018, she came to know that she had become pregnant. She told her husband. She used to visit her brother-in-law Amit for regular check up. Amit was a Doctor. In June 2018, she had gone to Amit's Dispensary for regular Sonography. On 12th

June 2018, Mayur and Amit told her that the growth of foetus was not proper and she had to undergo abortion. She suggested to take second opinion but they refused And and gave her tablets for terminating her pregnancy. It is her case that believing them, she consumed those tablets causing abortion.

4. On second occasion in March 2019, she again became pregnant. She again went to the Dispensary of Amit. The initial reports were normal. On 25th March 2019, in the morning at 9.30 a.m. her husband Mayur gave her tea to drink and she drank it. At around 12.30 p.m. she had pain in stomach. She went home. There was heavy bleeding causing abortion. After two days, when she was at home, she told her husband to bring Nira. She went to the balcony and saw that her husband was mixing some power in a plastic bottle. The informant asked him about it. He told her that he was cleaning the bottle. The informant got suspicious. She checked his mobile phone. She heard call recording of Mayur with Amit and the present applicant Vishal. The present applicant is first cousin of Mayur. Based on this recording, she was satisfied that all three of them had caused abortion against her wish. On this basis,

she had lodged the F.I.R.

5. Learned Counsel for the informant submitted that the applicant is also involved in the offence. He submitted that he is the master mind in this offence. He had suggested that the informant should be made to terminate pregnancy on both occasions.

6. Learned Counsel submitted that the first informant had heard recording and based on this recording she had reached this conclusion.

7. Learned APP, on instructions, of the Investigating Officer who is present in the Court makes a categorical statement that the Investigating Agency has found no evidence of such conversation between Vishal and Mayur whereby, the applicant Vishal was suggesting to Mayur that he should force the informant to undergo abortion or he should take such forcible steps. She submitted that the transcript recovered during the investigation is of the conversation between Amit and Mayur and not with the present applicant Vishal.

8. Learned Counsel for the applicant submitted that the

application for Amit was withdrawn when he had sought anticipatory bail from this Court. Subsequently, he was arrested and was released on bail.

9. Learned Counsel has not pressed application for anticipatory bail for the husband Mayur. Therefore, investigating agency is free to investigate. Shri Kadam made a categorical statement that the informant and her husband Mayur are at present staying together.

10. I have considered all these submissions. As far as the submissions of the learned Counsel for the informant are concerned, they are opposite of the submissions made by the learned APP, on instructions, of the Investigating Officer. Therefore, at this stage, the applicant Vishal's role is not brought out clearly. In fact, the Investigating Agency has not found any evidence against him regarding the allegations made by the informant. The Investigating Agency has already seized the mobile phone of Mayur and has also seized the CD of recording which is produced by the informant. Therefore, for investigation purposes, in this background, the applicant's custody is not necessary. It is also

significant to take into account the statement made by the learned Counsel for the applicant that the husband Mayur and the informant's wife are at present staying together. In this view of the matter, I do not see any propriety in permitting custodial interrogation of the present applicant. He deserves protection of anticipatory bail.

11. Hence, the following order.

ORDER

- (i) In the event of his arrest in connection with C.R.No.395/2019 registered at Loni Kalbhor Police Station, Pune (Pune Rural), the applicant is directed to be released on bail on his furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.
- (iii) In view of the disposal of this application, nothing survives in Interim Application No.10 of 2020 and the same is also disposed of.

(SARANG V. KOTWAL, J.)