

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPEAL NO. 73 OF 2022

Govind alias Anna s/o Khandu Mokate,  
Age 49 years, Occu. Agriculture,  
R/o : Village Imampur, Post : Jeur (Ba.),  
Taluka and District Ahmednagar. ... Appellant

Versus

1. The State of Maharashtra,  
through the Officer Incharge,  
Tophkhana Police Station,  
Ahmednagar, Taluka and  
District : Ahmednagar.
2. The Superintendent of Police,  
Ahmednagar.
3. XYZ ... Respondents.

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Mr. R. S. Deshmukh, Senior Advocate i/by Mr. Devang R. Deshmukh  
with Mr. R. B. Temak, Advocates for the Appellant.  
Mr. S. J. Salgare, APP for Respondent Nos. 1 and 2.  
Mr. V. H. Dighe, Advocate for Respondent No.3.

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**CORAM : V. K. JADHAV AND  
SANDIPKUMAR. C. MORE, JJ.  
DATED : 15<sup>th</sup> MARCH, 2022**

**ORDER :**

1. The appellant is seeking anticipatory bail in event of his arrest  
in connection with crime no. 1043 of 2021 registered at Tophakhana  
Police Station, Ahmednagar for the offence punishable under Sections  
376 and 506 of IPC and Section 3 (1)(w)(ii), 3(2)(va) of the

Scheduled Casts and Scheduled Tribes (Prevention of Atrocities) Act, 1989. His application with similar prayer came to be rejected by the learned Special Judge, Ahmednagar vide order dated 07.01.2022 passed below Exhibit 1 in Cri. (Bail) M.A. No. 2068 of 2021. Under the provisions of Section 438 of Cr.P.C., the appellant has preferred this appeal against the order of rejection of his application seeking anticipatory bail.

2. Brief facts of the case are that respondent no.2-informant runs a beauty parlour name and styled as 'Rutuja Beauty Parlour' and her husband is a physiotherapist. In the year 2018, the appellant has sent a friend request to respondent no.3-informant on her Facebook account, however, respondent no.3 has not accepted the same. However, the appellant has continuously tried to make contact with her by using various social networking apps. Even the appellant went to the house of respondent no.3 in the month of May-June 2021 under the pretext of getting treatment of physiotherapy from her husband. It has been alleged in the complaint that eight days thereafter, the appellant went to the house of respondent no.3 again and by giving threats to respondent no.3, established physical relations with her and also committed sexual intercourse with her against her will. Respondent no.3-informant is belonging to the

scheduled cast. It is also alleged in the complaint that on 21.11.2021, respondent no.3-informant has clandestinely recorded in her mobile the presence of appellant and the role played by him. On the basis of these allegations, the aforesaid crime came to be registered against the appellant.

3. Learned senior counsel appearing for the appellant submits that the appellant is active in social and political field of his village, namely, Imampur, post Jeur in Ahmednagar taluka and he is also a former member of Panchayat Samiti, Ahmednagar. At present his daughter is a sitting member of the Zilla Parishad, Ahmednagar. Learned senior counsel submits that on 07.12.2021, younger brother of the appellant, namely, Sundar, has lodged a First Information Report with M.I.D.C. Police Station, Ahmednagar against two persons whose mobile numbers are mentioned in column no. 7 therein, with the allegations that the owners of those two cell phone numbers, by forwarding certain porn video of his brother appellant Govind and one lady, maligned his and his family's image in the society and also made a conspiracy to damage the political and social image of his brother appellant Govind. On the basis of said report, crime no. 769 of 2021 came to be registered on 07.12.2021 against those two persons having aforesaid cell phone numbers, for the offence

punishable under Sections 500, 502, 34 of IPC and Sections 67 and 67-A of the Information Technology Act, 2000. Learned senior counsel submits that in the background of the aforesaid facts, a totally false, afterthought and concocted FIR came to be filed by respondent no.3 against the appellant.

4. Learned senior counsel submits that as per the allegations made in the complaint, there appear to be long standing relations between the appellant and respondent no.3. Respondent no.3 has not made any complaint even though the said physical relations remained continued from the year 2018 till 22.11.2021. Even then respondent no.3 has made the allegations about commission of rape against the appellant with oblique motive.

5. Learned senior counsel submits that even the wife of the appellant, namely, Meena, has approached the Superintendent of Police, Ahmednagar and submitted a detailed representation on 15.12.2021 along with all the necessary enclosures and requested an inquiry into the matter. The wife of the appellant has pointed out in the said representation as to how her husband has been falsely involved in connection with the present crime. Learned senior counsel submits that in the given set of allegations, custodial interrogation of the appellant is not required.

6. Learned senior counsel further submits that respondent no.3 victim is a habitual blackmailer and she is indulged in activities like honey-trap. The appellant is the victim of said honey-trap. Learned counsel submits that there is an unexplained delay of three years in lodging the complaint. Respondent no.3 and the members of her gang have made demand of huge money from the appellant and since the appellant has failed to fulfill their illegal demand of blackmailing, for taking revenge, the false and concocted FIR came to be lodged against him. Learned senior counsel submits that respondent no.3 and her husband made various calls to the appellant for blackmailing and threatening for obtaining money by using cell phone numbers.

7. Learned senior counsel submits that so far as the video recording by respondent no.3 on her mobile about physical relations is concerned, that itself indicates that how the appellant has been falsely implicated in connection with the present crime. The appellant is ready to cooperate the investigating agency and for that purpose he is ready to abide any conditions if imposed by this Court.

8. Learned counsel for respondent no.3 submits that there is a strong *prima facie* case against the appellant. There is strong possibility of tampering the prosecution evidence if the appellant is released on anticipatory bail. The appellant has developed sexual relations with respondent no.3 by giving life threats to her and her family members. The appellant is an influential person having political background. The appellant may not be released on anticipatory bail.

9. Learned APP submits that there is a strong *prima facie* case against the appellant. The investigation is in progress. Custodial interrogation of the appellant is necessary to find out the truth. The appellant may not be released on anticipatory bail.

10. We have carefully gone through the contents of the complaint and also perused the investigation papers. Respondent no.3 belongs to scheduled caste. The appellant is a politically influential person. As per the allegations made in the complaint and the evidence collected in connection with the said allegations, it appears that the appellant has continuously followed respondent no.3 to establish physical intimacy with her by using social media apps and even went to her house under the pretext of taking treatment of physiotherapy from

her husband. It further appears that the appellant has thereafter went to the house of respondent no. 3 and after giving life threats to her, committed intercourse with her against her will. Learned APP has brought to our notice that even respondent no.3-informant video recorded their sexual relations. Though in the text of the transcription of the said video recording it is stated that there is no stress on the face of respondent no.3 and the sexual relations between them appear to be normal, however, respondent no.3 has specifically alleged in the complaint that she has video recorded the said incident to substantiate the allegations and produced the same before the police along with her complaint.

11. We have carefully gone through the report submitted by the Investigating Officer. It appears that the investigation is in progress and the custodial interrogation of the appellant is necessary to collect evidence. Though the learned senior counsel has tried to convince us on the basis of various extraneous material as to how the appellant has been implicated falsely in connection with the present crime, however, we are not inclined to consider the said extraneous material including the representation made by the wife of the appellant before the Superintendent of Police. On careful perusal of the investigation papers, we are of the opinion that the allegations are serious in

nature. There is strong possibility of tampering of prosecution evidence if the appellant is released on anticipatory bail. Hence, we proceed to pass the following order:

**ORDER**

The criminal appeal is hereby dismissed.

**(SANDIPKUMAR C. MORE, J.)**

**(V. K. JADHAV, J.)**