

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

ANTICIPATORY BAIL APPLICATION NO. 274 OF 2022

Mr. Rocky Singh @ Ravi Rajan Kumar & Anr. Applicants
Versus
The State of Maharashtra Respondent

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Mr. Makarand Panchakshari for Applicants.
Smt. A. A. Takalkar, APP for State/Respondent.
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CORAM : SARANG V. KOTWAL, J.
DATE : 3rd FEBRUARY 2022
(through Video Conferencing)

P.C. :

1. At the outset, learned APP makes a statement, on instructions that, at this stage, the investigating agency does not want to arrest the Applicant No.2. But if in future they required custody of the applicant No.2, they will give four clear working days notice to the applicant No.2 to enable her to approach the sessions court. The statement is recorded and accepted. Therefore, I have specifically heard this matter for consideration of grant of relief or otherwise to the applicant No.1.

2. The Applicants are seeking anticipatory bail in

connection with C.R.No. I-112 of 2021 registered at Malvani Police Station, on 08/02/2021, under sections 292, 293 and 420 r/w. 34 of the Indian Penal Code (for short 'IPC'), under sections 67 and 67A of the Information Technology Act, as well as, under sections 3, 4, 6 and 7 of the Indecent Representation of Women (Prohibition) Act, 1986. Subsequently Section 376 of IPC is also added after the victim had given her supplementary statement. The investigation is being carried out by DCB CID Crime branch.

3. Heard Shri. Makarand Panchakshari, learned counsel for the applicants and Smt. Takalkar, learned APP for the State.

4. The First Information Report (for short 'F.I.R.') is lodged by the victim herself. She has given her background as to how she started her career in modelling. In November 2020, she had shot for a Web series. In December 2020 she had started residing at Navi Mumbai.

5. On 29/12/2020, one Santosh contacted her and asked her whether she was interested in working in Web series. The shooting was to take place in Lonavala. She was offered Rs.25,000/- to Rs.30000/- for one day's shoot. He also told her

that, one Alisha would call her. After some time, that Alisha called the informant. She told the informant that shooting was at Lonavala and the Web series would be available only on paid application. That web series could not be shared or down loaded unless payment was made. She told the informant that there was urgency and shooting was to take place at Lonavala and they had to leave in the evening. The informant was called at Malad. In the evening the informant reached there. Alisha told the informant that other actors were to reach there, but since they were busy, the shooting was getting late. Alisha took the informant to her flat. She was residing with her husband and two years old child. There were servants in the house. Since it was late in the night, the informant stayed with Alisha.

6. On the next day i.e. on 30/12/2020, Alisha told the informant that, shooting at Lonavala was cancelled and that shooting would then take place at Madh, Malvani, Malad (W). She prepared an agreement and told the informant to sign that agreement. Thereafter, the informant, Alisha, her husband, one Cameraman Monu and servant Suraj Sharma went to a bungalow

at Madh. There both the applicants were present. First scene was shot between the informant and the applicant No.2. The recording was made by Alisha's husband and one Monu. Alisha told the informant that the informant would have to give nude shots and would have to act in nude scenes. The informant refused. On her refusal, Alisha demanded Rs.10 lakhs and threatened to make the complaint. The informant got scared and started crying. At that time, Alisha's husband and one Sonu told her that, she had to do those scenes. Alisha gave her one energy drink. But after consuming it the informant felt giddiness. In that situation, some nude scenes were shot. After shooting, she slept in Alisha's house.

7. On 31/12/2020, in the morning, she went back to her house. She asked for her money from Alisha. Rs.30000/- were transferred by Alisha as suggested by the informant.

8. On 28/01/2021, the informant's friend sent her a message and told her that in a link shared by him, the informant's nude scene was being widely circulated. He also sent some screen shots from that scene. The informant started getting the information from many others. The informant contacted Alisha on

01/02/2021. Alisha blamed the informant herself and stopped responding. On 04/02/2021 the informant consulted this issue with her advocate. The informant down-loaded that link and saw the video which contained a video which was shot at the bungalow at Madh. She realized that she was cheated and she would be in serious trouble. Therefore, she lodged this F.I.R. on 08/02/2021.

9. Learned counsel for the applicant No.1 submitted that the applicant No.1 himself was a victim. He had nothing to do with the plan of shooting nude video. He was also a paid actor and, therefore, nothing can be attributed to him. There is a delay in lodging the F.I.R. and it is lodged as an afterthought. The F.I.R. is lodged after consultation with the advocate and, therefore, no offence is made out.

10. Learned APP opposed this application. She produced supplementary statement of the informant before me. The supplementary statement was recorded on 29/09/2021 wherein she has elaborated on that particular incident. She has stated that, when she was almost unconscious, the applicant No.1 committed sexual intercourse with her. It was a part of shooting and that

shooting was published on an application and was made available. After recording this statement, Section 376 of IPC is made out.

11. I have considered these submissions. I am unable to agree with the submissions that the applicant No.1 was innocent and was not aware of the plan against the informant. He had actively participated in the shooting. It cannot be said that, he was not aware that the informant would be made to give nude shots. He had participated in the scene, as well. Therefore, this submission that the applicant is innocent is out-rightly rejected.

12. So far as delay in lodging of F.I.R. is concerned, in such matters such delay is understandable and there is nothing wrong in taking legal assistance before lodging the F.I.R. The informant was given intoxicant drink and in that situation she was exploited by these persons. The video was available and was produced in the investigation. There is sufficient material to show that, it is a very serious offence. The applicant No.1 is deeply involved. No case for grant of anticipatory bail order to him is made out. Custodial interrogation of the applicant No.1 is absolutely necessary.

13. Hence, the following order :

ORDER

- (i) The application on behalf of the applicant No.1 is rejected.
- (ii) The Investigating agency, as per their own statement, shall give four clear working days notice to the Applicant No.2, if they want to arrest the Applicant No.2 in connection with C.R.No. I-112 of 2021 registered at Malvani Police Station, to enable her to approach the appropriate court for appropriate relief.
- (iii) With this direction the application is disposed of.

(SARANG V. KOTWAL, J.)