

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

CRI. ANTICIPATORY BAIL APPLICATION NO. 2762 OF 2021

Shashikant Shrimant Kharat ..Applicant
Vs.
The State of Maharashtra & Anr. ..Respondents

**WITH
INTERIM APPLICATION NO. 3067 OF 2021
IN**

CRI. ANTICIPATORY BAIL APPLICATION NO. 2762 OF 2021

Jyoti Santoshkumar Verma ..Intervener

IN THE MATTER BETWEEN

Shashikant Shrimant Kharat ..Applicant
Vs.
The State of Maharashtra & Anr. ..Respondents

**WITH
CRI. ANTICIPATORY BAIL APPLICATION NO. 2763 OF 2021**

Shashikant Shrimant Kharat ..Applicant
Vs.
The State of Maharashtra & Anr. ..Respondents

**WITH
INTERIM APPLICATION NO. 3058 OF 2021
IN
CRI. ANTICIPATORY BAIL APPLICATION NO. 2763 OF 2021**

Jyoti Santoshkumar Verma ..Intervener

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IN THE MATTER BETWEEN

Shashikant Shrimant Kharat

..Applicant

Vs.

The State of Maharashtra & Anr.

..Respondents

Mr. Prashant Pandey a/w. Mr. Manpreet Putiani i/b. LLP Legal, for the Applicant.

Ms. A. S. Pai a/w. Mr. Y. Y. Dabke, APP for the Respondent / State.

Mr. P. R. Dave, for the Intervenor.

API Devale A. A., Panvel City Police Station in ABA 2762/2021.

PN 1588 Rajendra S. Kharat, Kamothe Police Station, Navi Mumbai.

CORAM : C.V. BHADANG, J.

RESERVED ON : 31 JANUARY 2022

PRONOUNCED ON : 29 MARCH 2022

P.C.

. Both these Applications, can be disposed of by this common order.

2. In ABA No.2762/2021, the Applicant is seeking anticipatory bail in Crime No.523/2021 with Police Station Panvel City, New Bombay, under Section 354, 323 and 506 of IPC and Section 67-B of the Information Technology Act, 2000 and Section 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

3. In ABA No.2763/2021, the Applicant is seeking anticipatory bail in Crime No.396/2021 of Police Station Kamothe, New Bombay under Section 366, 376 and 506 of IPC.

4. Both these crimes are registered on the basis of the complaint lodged by Respondent - Jyoti Santoshkumar Verma. The FIR in Crime No.523/2021 is registered on 16 September 2021 while the FIR in Crime No.396/2021 is registered on 10 September 2021.

5. According to the informant, she is a bar singer working in *Cazy Bar* at Kongaon, Panvel. She was married to Sunilkumar and has a daughter aged about three years from the said marriage. She has since obtained divorce from Sunilkumar. The informant got acquainted with the Applicant somewhere in 2019 and the acquaintance turned into love relationship and the Applicant and the informant were staying together in a live-in relationship.

6. The Applicant claims to be working against the operation of the ladies bar and orchestras particularly, which were operating against the guidelines during the Pandemic. The Applicant claims that his crusade against the bar owners has invited wrath of such bar owners as well as police officers and other stakeholders.

7. In Crime No.396/2021 of Police Station Kamothe, the informant claims that on 7 September 2021, the Applicant met her

on the road and forcibly took her in his car to *Prince International Lodge* at Sector 19 and had forcible sexual intercourse with her. She claims that the Applicant was objecting to her working in the said bar.

8. In Crime No.523/2021, the informant claims that the Applicant used to look after her minor daughter when she was away for her work as a bar singer. She used to leave the house at 5.00 p.m. and would return at 11.00 p.m. She claims that the Applicant used to inappropriately touch her daughter. She also claims that while she was away the Applicant obtained a video recording of the minor daughter after asking her to remove her clothes. It is in these circumstances that the offence under Section 354 of IPC and the relevant provision of the Information Technology Act and the POCSO Act have been invoked in the said crime.

9. The learned Sessions Judge has refused to grant pre-arrest bail to the Applicant, in both these crimes.

10. I have heard the learned counsel for the parties. Perused record.

11. It is submitted by the learned counsel for the Applicant that the Applicant has invited wrath of the bar owners and also the police

officers who are hand-in-glove with such bar owners and all the stakeholders and therefore, Applicant has been falsely implicated in this case. He pointed out that the Applicant had lodged complaint against concerned police officer Ms. Jyoti Thakur Verma with the superior police officer. He has also addressed complaint to the Hon'ble Chief Minister of the State. He submitted that the informant has also been coercing the Applicant in extracting money. He submitted that the FIRs are belated and in any event, the allegations are totally improbable and unacceptable. The learned counsel was at pains to point out that the FIR in Crime No.396/2021 has been lodged belatedly and there is no explanation for such delay. The learned counsel has taken me through the exchange of *What's APP* messages between the parties in order to submit that even according to the informant, the relationship was consensual. He also pointed out certain entries by which he has transferred amounts in favour of the informant. He submitted that the complaint in Crime No.523/2021 is lodged in quick succession only to falsely involve the Applicant in the POCSO case. The said complaint is got up. He submitted that the custodial interrogation of the Applicant is not necessary.

12. The learned APP assisted by the learned counsel for the Intervener submitted that the allegations are serious. It is submitted that not only that the informant has been sexually abused, even

there are allegations about the sexual abuse of the child, in as much as there are allegations of the Applicant inappropriately touching the child and obtaining her video after asking her to remove her clothes.

13. It is submitted that the Applicant has criminal antecedents against him and in order to investigate the offence properly, custodial interrogation of the Applicant is necessary. Learned APP pointed out that the Applicant is filing false and frivolous complaints even against the Investigating Officer and therefore, there is likelihood of misuse of the bail by threatening / tampering the prosecution witnesses.

14. I have considered the rival circumstances and the submissions made.

15. It is necessary to note that presently, I am only concerned with the prayer for pre-arrest bail and therefore, the consideration will have to be confined to a need for custodial interrogation in the context of the allegations made. It is neither necessary nor appropriate at this stage to appreciate the evidence collected. In the first FIR, the informant has made allegations of her sexual abuse on account of the fact that the Applicant was not happy with the informant working as a bar singer. She claims to have been forcibly taken by the Applicant to Prince International Lodge, where the

Applicant had forcible sexual intercourse with her. The second FIR is regarding the abuse of the daughter of the informant aged about three years. The allegations by any standards are serious in which the informant claims that the child was inappropriately touched and even her video recording was obtained after removing her clothes. There are certain snap shots of the photographs / videos produced on record. It is not necessary to dwell on the same as the investigation is still in progress.

16. The learned APP has pointed out that there are four other crimes being (i) Crime No.69/2018 of Police Station Hinjewadi, Pimpri Chinchwad, (ii) Crime No.98/2017 of Police Station Shivajinagar, (iii) Crime No.18/2018 of Police Station Shivajinagar and (iv) Crime No.396/2021 of Police Station Kamothe Navi Mumbai, which are registered against the Applicant on the basis of the complaint made by the informant, against the Applicant. Apart from that, there is Crime No.345/2010 which is said to be registered against the Applicant with Police Station Satara City under Section 143 and 149 of the Maharashtra Police Act. N.C. No.2575/2021 under Section 506 of IPC, NC No.2747/2021 under Section 504 and 506 of IPC and NC No.13/2022 under Section 506 of IPC, all with Police Station Panvel, District Raigad are registered against the Applicant.

17. In my considered view, the proper investigation of the offence is a paramount consideration at this stage for which the custodial interrogation of the Applicant is necessary. The Criminal Applications are accordingly rejected. The Interim Applications also stand disposed of.

18. At this stage, the learned counsel for the Applicant seeks extension of the interim relief. Upon hearing the learned counsel for the parties and in order to afford a fair chance to the Applicant, the interim relief shall continue to operate for a period of two weeks.

C.V. BHADANG, J.