

...Applicant

...Respondent

Mr. Basvaraj M., Kothrud Police Station, Pune City, present.

DATED : 21 DECEMBER 2022

This is an application under Section 438 of the Code of Criminal Procedure for anticipatory bail.

3. The alleged incident took place in the intervening night of 9 December 2022 and 10 December 2022. According to the complainant, during the relevant period he was working as a police

Head Constable with police Headquarter, Pune and was assigned the duty to guard the residence of Higher and Technical Education Minister, State of Maharashtra, at Kothrud, Pune. It is alleged that at about 12.10 a.m. the complainant found that the present applicant was standing there near the gate of Bungalow and one unidentified woman who was with the applicant, was making video of the Bungalow in her mobile phone. According to the complainant, he repeatedly told the applicant to go away, however, he refused to do so.

4. The learned counsel for the applicant submits that there is a delay in lodging the FIR. It is submitted that even if the case of the prosecution is accepted as it is, still it would not constitute the offence punishable under section 353 of the IPC.

5. On the other hand the learned APP submits that considering the nature of offence the applicant may not be released on anticipatory bail.

6. I have perused the First Information Report. There is a delay of three days in lodging the FIR. Apart from it, prima facie, the allegations would not constitute the offence punishable under Section 353 of the IPC. Considering these facts, I am inclined to release the applicant on anticipatory bail. Hence, the following order is passed:

- (i) Application is allowed.
- (ii) In the event of the arrest of the applicant in Crime No. 292 of 2022 registered at Kothrud police station for the offences punishable under Sections 353 read with 34 of the Indian Penal Code, he shall be released on anticipatory bail on furnishing PR bond in the sum of Rs. 25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall attend the concerned police station as and when called.

(N.R. BORKAR, J.)