

VRJ

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

ANTICIPATORY BAIL APPLICATION NO.1667 OF 2023

Nidhi Santosh Shivansh Sharma Alias

Nidhi Santosh Dixit ... Applicant

V/s.

The State of Maharashtra ... Respondent

WITH

INTERIM APPLICATION NO.2124 OF 2023

Ashutosh Arvind Deshmukh ... Applicant

In the matter between

Nidhi Santosh Shivansh Sharma Alias

Nidhi Santosh Dixit ... Applicant

V/s.

The State of Maharashtra ... Respondent

Mr. Abhishek R. Avachat with Mr. S.H. Deshpande for
the applicant.

Mr. Amit A. Palkar, APP for the respondent/State.

Mr. Kuldeep U. Nikam for the intervener in
IA/2124/2023.

CORAM : AMIT BORKAR, J.

DATED : JUNE 15, 2023

P.C.:

1. The Interim Application No.2124 of 2023 is allowed.
2. Apprehending arrest in connection with C.R. No.493 of 2023 registered with Hadapsar Police Station for offences punishable under sections 420, 506, 384, 388 read with section 34 of the

Indian Penal Code, 1860, the applicant is seeking relief under section 438 of the Criminal Procedure Code, 1973.

3. According to prosecution, informant alleged that accused No.1 – Vikram Bhate and the applicant had called the informant at a particular place. The applicant clicked selfies of the applicant and the informant in a compromising position and recovered ransom amount to the extent of Rs.17,15,000/-from time to time for the reason that the applicant along with accused No.1 would permanently send the informant in jail on the charges of rape. In the report, the informant has stated that from 3rd August 2022 till 7th November 2022 they were in contact. On 7th November 2022, the applicant met the informant at Elphanta Hotel, Kalyani Nnagar, Pune and, thereafter, she took the informant to her flat at Wagholi. In the bed room of the flat, the applicant clicked selfies in a transparent night dress and after clicking such selfies, she changed her dress and shouted on informant as to why he had come to her place. The informant left the place. She blocked mobile number of the informant.

4. On 15th November 2022, the accused No.1 called the informant and got ransom amount from time to time threatening him that in case of failure to pay the amount as sought, he shall send the informant in jail for raping the applicant.

5. The applicant, therefore, filed an application under section 438 of the Criminal Procedure Code, 1973 before the learned Sessions Judge, which has been rejected by order dated 6th May 2023. Aggrieved thereby, the applicant has filed present

application.

6. Learned advocate for the applicant submitted that the applicant has been falsely implicated. She is a law graduate and works as assistant to the main accused Vikram Bhate. After the incident of 7th November 2022, she has never met the informant and she is not aware about the acts done by the accused No.1 Vikram Bhate.

7. Per contra, Learned APP for the State based on the material on record in the form of statement of the witnesses and transcript of Whats App chat submitted that the statement and the contents of Whats App chat resemble events stated in the first information report; therefore, this is not the case of false implication. Custodial interrogation of the applicant is necessary to recover her cell phone.

8. Learned advocate for the victim also opposed the grant of relief alleging that one more report of similar nature has been filed against the main accused where some different woman is involved but the modus operandi is same. He, therefore, submitted that the application deserves to be rejected.

9. Perused the case diary and the material on record in the form of Whats App chat and the statement of the informant. On perusal of transcript of Whats App chat, prima facie it appears that the said chat resembles exactly the events which are stated in paragraph No.1 of the report except the date of alleged incident being stated as 7th November 2022, which in the Whats App chat appears to be 8th November 2022, the role of the applicant stated

in the report can be born out from the contents of transcript of Whats App chat. Therefore, at this stage possibility of false implication of applicant does not arise. Based on the statement of the informant, transcript of Whats App chat and other material available on record, prima facie case is made out against the applicant. Custodial interrogation of the applicant is necessary to recover the data in the cell phone. Hence, the applicant does not deserve any relief.

10. The anticipatory bail application is rejected.

(AMIT BORKAR, J.)