

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2148 OF 2023

Avinash Subhas Kalse ...Applicant
vs.
The State of Maharashtra ...Respondent

Mr. Abhishek Nandimath a/w. Mr. Suyash Khose, for the Applicant
Ms. Anamika Malhotra, APP, for the Respondent/State.

CORAM : N. J. JAMADAR, J.
DATE : DECEMBER 14, 2023

P.C.:

1. Heard the learned counsel for the applicant and the learned
APP for the State.

2. This application is preferred seeking pre-arrest bail in
connection with C.R. No.252 of 2023 registered at Mankhurd police
station for the offences punishable under sections 376, 376(2)(n),
506, 509 read with 34 of Indian penal Code, 1860 and section 66E,
67 and 67A of the Information Technology Act, 2000.

3. When the application was listed before this Court on 10th
August, 2023 this Court was persuaded to grant interim bail
observing inter alia as under :-

2] The aforesaid crime was registered pursuant to the
FIR lodged by the prosecutrix. The facts narrated in

the FIR prima facie reveal that the allegations of rape are against the co-accused. It is alleged that the co-accused had taken photographs /videos of sexual assault. The applicant herein is the brother-in-law of the co-accused, with whom the prosecutrix was having extra marital relationship. The only allegation against the applicant is that he had abused the prosecutrix and forwarded to her, on her instagram account, the photographs taken by the co-accused.

3] Learned Counsel for the applicant states that the applicant had himself received the photograph from some unknown number and that he had only forwarded the same to the first informant. Learned Counsel for the applicant states that the applicant undertakes not to circulate or publish any such photographs. He further states that the applicant shall hand over his mobile to the Investigating Officer.

4. The role attributed to the applicant is that the video containing objectionable contents was forwarded by the co-accused who had allegedly exploited the first informant to the applicant and later had forwarded the clip to the first informant.

5. In the circumstances and having regard to the aforesaid nature of the accusation, at this length of time, the custodial interrogation of the applicant does not seem to be warranted to facilitate further investigation. I am, therefore, impelled to make the order of interim bail absolute.

6. The order of interim bail dated 10th August, 2023 is made absolute on the terms and conditions incorporated therein.

7. In addition, the applicant shall regularly attend the proceedings before the jurisdictional Court.

8. It is clarified that these prima facie observations are confined to determine entitlement to pre-arrest bail only.

Application disposed.

(N. J. JAMADAR, J.)