

SA Pathan

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

ANTICIPATORY BAIL APPLICATION NO.3245 OF 2022

Sunil Hanumant Kakade ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

ANTICIPATORY BAIL APPLICATION NO.3107 OF 2022

Meena Kailas Giri ... Applicant
V/s.
The State of Maharashtra ... Respondent

Mr. Abhishek Kulkarni, for the Applicant in ABA
No.3245 of 2022.

Mr. Abhishek Kulkarni i/by Mr. Deepak K. Girme, for
the Applicant in ABA No.3107 of 2022.

Mrs. Rutuja Ambekar, APP for the State-Respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 27, 2023

P.C.:

1. Apprehending arrest in connection with C.R.No.362 of 2022 registered with Warje Malwadi police station, District Pune for the offences punishable under Sections 384, 386, 387, 388 r/w 34 of the Indian Penal Code, 1860 (for short 'IPC'), applicants are seeking relief of pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 (for short 'Cr.P.C.).

2. According to prosecution, the informant's son Javed was in friendly relationship with one Kavita Kondhalkar. During their

relationship, there was dispute between both of them. In the year 2021, the accused No.1 called the informant to resolve dispute between informant's son Javed and Kavita. Informant went at the place suggested by accused No.1. Accused No.1 told her that she will resolve dispute between Javed and Kavita. In the month of June 2021, accused Nos.1 to 3 along with others reached the house of informant and threatened her to lodge criminal case against informant's son. The accused Sunil Kakade was standing on the door. They threatened the informant that they will lodge complaint of rape against informant's son which will defame the informant and her son. All accused persons including the present applicant repeatedly called the informant demanding amount of Rs.3 lakhs for peaceful resolution of dispute between the informant's son and Kavita. Accordingly, informant on 7 July 2021 went to Suwarna Hotel where she was called by the accused No.1. A compromise memorandum was prepared on stamp paper which was signed by all persons. However, Kavita was not present and did not sign compromise memorandum. All accused persons including applicant received amount of Rs.3 lakhs and assured to get signature of Kavita on stamp paper. It was thereafter, revealed that by keeping Kavita in dark, all accused persons including applicant received amount of Rs.3 Lakhs from the informant. When the informant reached the office of applicant and accused No.1, she was threatened that a complaint of rape will be filed against her son. She, therefore, lodged report with the respondent police station.

3. Applicants, therefore, filed application under Section 438 of

Cr.P.C. before learned Sessions Judge which came to be rejected. Aggrieved thereby, the applicants have filed the present anticipatory bail application.

4. On perusal of material on record and case papers, it appears that applicant in ABA No.3245 of 2022 is running an institution having name “National Human Rights Protection”. The applicant has proclaimed himself as President of Maharashtra State. The address of a place bearing office No.306 Ashiana Building, 3rd Floor, Shivaji Nagar, Pune is mentioned as place of office. The object of institute is to help needy woman and to protect common citizens from economic offences. It is also one of the objects to help people to get benefits of Government Scheme, loan and grants and to reduce hospital bills etc. The accused No.1 who has withdrew her anticipatory bail application is running similar NGO in the name of “Jhansi Chi Rani Mahila Mandal Trust”.

5. According to the learned Advocate for the applicant the informant had withdrawn similar complaint filed before the concerned police station stating that she had no grievance against the accused persons. On prima facie perusal of the material on record including statement of informant it appears that prima facie the informant had consistently extorted Rs.3 lakhs in total from the informant. The communication dated 6 June 2022 is consistent with the case of the informant that accused persons had accepted amount of Rs.3 lakhs from the informant in consideration of settlement of dispute between informant’s son and Kavita.

6. This Court can take judicial notice of misuse of good will of

non-Governmental organizations to cheats common people. It is observed that under the garb of good will of non-Governmental organizations, few peoples are trying to exploit persons who are under the impression that they are on the wrong side of law. Such conduct in the part of such miscreants has effect of distingsuinshing credibility of non-Governmental organizations which they have gains by doing social work. It is, therefore, necessary that such offence needs to be investigated to unearth larger racket of similar offences of extortion under the garb of non-Governmental organizations. To investigate such offence custodial interrogation of the applicants is necessary.

7. The importance of custodial interrogation has been laid down in paragraph 6 by the Apex Court in the case of **State represented by CBI v. Anil Sharma** reported in (1997) 7 SCC 187 as under:

“6. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconded with a favorable order under Section 438 of the code. In a case like this effective interrogation of suspected person is of tremendous advantage in disintering many useful informations and also materials which would have been concealed. Succession such interrogation would elude if the suspected person knows that he is well protected and insulted by a pre-arrest bail during the time he interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all

criminal cases. The court has to presume that responsible Police Officers would conduct themselves in task of disinterring offences would not conduct themselves as offenders.”

8. In the facts of the present case, the observations in the paragraph 6 are squarely applicable as interrogation of the applicants under protection of pre-arrest order granted by this Court would insulate them from effective interrogation. The custodial interrogation of the applicants is, therefore, necessary to investigate from the angle of larger scam. Hence, there is no merit in the applications.

9. Both the anticipatory bail applications are, therefore, rejected. No costs.

10. At this stage learned Advocate for the applicants requested for continuation of ad-interim relief, considering the gravity and nature of offence, the request is rejected.

(AMIT BORKAR, J.)