

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

Anticipatory Bail Application No. 1663 of 2024

Samarth Praful Bhaindarkar
Age 44 years, Occ. Business,
R/at. Building No.6, A/23, Balaji
Building, Linking Road,
Opp. Oshiwara Bus Depot,
Goregaon (West), Mumbai - 400 104.

... Applicant

Versus

1. The State of Maharashtra
At the instance of Senior Inspector
of Police, Goregaon Police Station,
Mumbai. Through Public Prosecutor,
Appellate Side,
Bombay High Court Complex.

2. Miss XYZ,
Age 28 years, Victim Informant,
Through Goregaon
Police Station, Mumbai.

... Respondents

Mr NU Khan a/w. Mr Arshad Qureshi a/w. Mr Sameer Shariff
a/w. Ms Sheeba Khan, for the applicant.

Ms Rajeshree Newton, APP for the respondent/ State.

PSI Sawant, Goregaon Police Station, Mumbai, is present.

Coram: RN Laddha, J.

Date: 4 July 2024

P.C.

By the present application, the applicant seeks pre-arrest

bail in connection with CR No.352 of 2024, registered at Goregoan Police Station, Mumbai, for the offences punishable under Sections 376, 328 and 506 of the Indian Penal Code.

2. The prosecution alleges that under the guise of assisting the informant with an acting job, the applicant invited her to a hotel room on 14 March 2024 and administered a drug in her cold drink to disrobe and sexually exploit her. The applicant also videographed the informant and threatened her to be with him, failing which he would share the video on social media. The applicant is also accused of borrowing Rs.4,50,000/- from the informant to aid his loss-making business.

3. Mr NV Khan, the learned Counsel appearing on behalf of the applicant, asserts that the informant and the applicant had developed a friendship. The applicant used to assist the informant financially, and when he stopped doing so, the annoyed informant lodged the present crime. There is a significant delay in lodging the crime as the alleged incident occurred on 14 March 2024, whereas the filing of the FIR took place on 3 May 2024. The learned Counsel submits that the applicant is willing to cooperate with the investigation and comply with the conditions set out by this Court. The applicant

has no criminal antecedents, and the custodial interrogation of the applicant is unnecessary. Further, Mr Khan, the learned Counsel, to support his contentions, relies on the decision of the Hon'ble Supreme Court in *Ansaar Mohammad v. State of Rajasthan*¹.

4. Ms Rajeshree Newton, the learned Additional Public Prosecutor representing the respondent/ State, submits that the role attributed to the applicant is specific. The applicant, by administering a drug, resulting the informant to become unconscious, and after that the applicant committed intercourse with her without her consent and knowledge. The applicant also videographed the incident and threatened the informant to leak the obscene video on social media. Thereafter, the applicant borrowed Rs.4,50,000/- from the informant citing the reason of stabilising his loss-making business. The offence is serious. The investigation is at a nascent stage. The applicant's custody is necessary to ascertain the allegations in detail of the administration of the drug. Moreover, the allegation of the informant's videography are required to be investigated and the used devices have to be recovered.

5. Upon perusing the record, it appears that the applicant

1 2022 SCC OnLine SC 886

and the informant were acquainted and had amicable relations. The allegations against the applicant involve administering a drug to the informant in a cold drink without her knowledge, rendering her unconscious and without her consent and knowledge committing sexual intercourse. After the informant regained consciousness, the applicant allegedly blackmailed her, threatening to share indecent photographs and videos on social media. Furthermore, the applicant borrowed money from the informant on the pretext of supporting his business. The allegations are grave and serious. The investigation is at a nascent stage, and details regarding the drug's administration and its procurement remain undiscovered. Additionally, the alleged devices used to record the informant and store the indecent footage are yet to be recovered. Given these circumstances, the applicant's custody is deemed necessary. The case cited by the learned Counsel for the applicant does not apply to the specific facts of this case. Consequently, this Court is not inclined to grant anticipatory bail to the applicant. As such, the application stands rejected.

[RN Laddha, J.]