

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

Anticipatory Bail Application No. 1818 of 2024

Mihir Pravin Gandhi
Aged 43 years, Occ. Business,
Indian Inhabitant, R/at. 205,
Ankur Apartments, Liberty Garden
Cross Road No.1, Malad (West),
Mumbai – 400 064.
Presently and temporarily stationed
at Ratnagiri.

...Applicant

Vs.

1. The State of Maharashtra
Through Malad Police Station, Mumbai.

2. Dhara Chirag Kothari
Room No.4, Kothari Building, Zakeria Road,
Malad West, Mumbai – 400 064.

...Respondent

Mr Pravin S Tembhekar, for the Applicant.
Mr Amit A Palkar, APP for the Respondent – State.
PSI Mohd Rafik Gavandi, Malad Police Station, is present.

**Coram: R. N. Laddha, J.
Date: 12 August 2024**

P.C.

Heard Mr Pravin Tembhekar, the learned counsel appearing for the applicant and Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent / State.

2. By this application, the applicant seeks pre-arrest bail in connection with CR No.461 of 2024, registered at Malad Police Station, Mumbai, for the offences punishable under Sections 354-D

and 509 of the Indian Penal Code and Section 67(A) of the Information Technology Act, 2000.

3. The informant reported that in 2018, she invested Rs.33,50,000/- in the accounts of the applicant and his family members at their request. However, they only returned Rs.9,50,000/- and ignored further payment requests. When demanded, they issued cheques that were dishonoured. A dispute ensued, and on 12 June 2023, the applicant sent an abusive SMS to the informant's husband, mocking her for being childless. The informant's husband filed a complaint at Malad Police Station. Later, on 3 April 2024, the applicant downloaded the informant's photographs from Instagram, added vulgar captions, and sent them to her husband's WhatsApp, outraging her modesty. The informant felt ashamed and lodged a report.

4. Mr Pravin Tembhekar, the learned counsel appearing on behalf of the applicant, submits that there is a substantial delay of 58 days in filing the FIR. The incident reported is of 3 April 2024, and the FIR was lodged on 1 June 2024. The FIR was filed only to recover the loan amount the informant's husband gave to the applicant. The photographs that formed the basis for lodging the FIR are not offensive, explicit or vulgar. The photographs were allegedly sent on the personal WhatsApp of the informant's husband and not on social media. There was no intention to insult or stalk the informant. There is no contact between the informant and the applicant, and no message

was ever sent to the informant. The photographs were already available on social media for everyone to see, and since this complaint relates to electronic documents, custodial interrogation is unnecessary. The applicant has no criminal antecedents. The applicant is ready and willing to cooperate with the investigation.

5. Mr Amit Palkar, the learned Additional Public Prosecutor representing the respondent/State, fairly concedes that the investigation is over, and the prosecution intends to file a charge sheet within a week from today. The applicant has attended the Police Station, surrendered his mobile phone, and cooperated with the investigation. He further acknowledges that the applicant's custodial interrogation is not warranted.

6. Upon perusing the records, it appears that the applicant is accused of stalking the informant and outraging her modesty by allegedly sending her photographs with vulgar captions to her husband. The incident in question occurred on 3 April 2024, however, the FIR was lodged only on 1 June 2024. There is no explanation for the 58-day delay in registering the crime. The learned APP acknowledges that the investigation is complete and the applicant's custodial interrogation is unnecessary, suggesting the prosecution's no-objection for granting pre-arrest bail to the applicant. The applicant has cooperated with the investigation and surrendered his mobile phone. Nothing is to be recovered from the applicant. Considering the above, this Court is inclined to allow the present application. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in C.R. No. 461 of 2024, registered at Malad Police Station, Mumbai, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant, himself or through any other person, shall not tamper with the evidence or influence any witnesses.

(iii) In the event of filing the charge sheet, the applicant shall regularly attend the proceedings before the jurisdictional Court.

7. It is clarified that these *prima facie* observations are confined to determining the entitlement to pre-arrest bail only.

8. The application stands disposed of.

[R. N. Laddha, J.]