

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2553 OF 2024**

Sandip Ashokrao Holkar ... Applicant

vs.

The State of Maharashtra ... Respondent

Mr. Sudeep Pasbola, Senior Advocate, a/w. Mr. Vivek Arote for applicant.

Ms. Rutuja A. Ambekar, APP for respondent-State.

CORAM : MANISH PITALE, J.

DATE : 23rd SEPTEMBER, 2024

P.C. :

. Heard learned senior counsel for the applicant and the learned APP for the respondent-State.

2. The applicant is apprehending arrest in connection with FIR No. 0472 of 2024 dated 24.08.2024, registered at Panchavati Police Station, District Nashik City for offences under Section 67A of the Information Technology Act, 2000 (IT Act) and Sections 351(2), 75(1), 78(1) and 78(2) of the Bharatiya Nyay Sanhita, 2023 (BNS).

3. The informant in the present case is the daughter-in-law of the cousin of the applicant and she has levelled allegation against the applicant to the effect that he has been stalking her and sending her messages. The messages, *inter alia*, asked for sexual favours from the informant and despite the informant resisting advances of the applicant, he has been allegedly pursuing her on various mediums. On the basis of the allegations levelled by the informant, the aforementioned offences have been registered.

4. The learned senior counsel appearing for the applicant submits that even if the statement of the informant is taken into consideration, the

offence under Section 67A of the IT Act is not even *prima facie* made out. It is further submitted that offence only under Section 75 of the BNS is non-bailable and since the applicant and the informant have been in touch, it can be said that the interaction was reciprocal and this Court may consider allowing the present application, as the applicant undertakes to co-operate with the investigation and not to keep any contact with the informant.

5. On the other hand, the learned APP submits that the statement of the informant is absolutely clear, as to the manner in which the applicant has been making advances towards her. Attention of this Court is invited the whatsapp messages revealed during the course of investigation, which indicate that the informant had repeatedly resisted the advances of the applicant and yet, he was harassing her. It is submitted that the fact that the informant is the daughter-in-law of the applicant's cousin ought to be taken into consideration, which indicates the seriousness of the offences.

6. This Court has considered the rival submissions in the light of the material on record. *Prima facie*, it appears that offence under Section 67A of the IT Act cannot be said to be made out. The messages exchanged between the parties do indicate that although the informant was resisting the advances made by the applicant, he appears to be have been pursuing her and the impression gathered by this Court is that the applicant is obsessed with the informant. The relationship between the two is that the informant is the daughter-in-law of the cousin of the applicant. The learned APP is justified in saying that this aspect of the matter also needs to be taken into consideration. But, in the facts and circumstances of the present case, as the only non-bailable offence can be said to be Section 75 of the BNS, since the applicant is ready to give an undertaking that he would cease to have any

contact with the informant and he also undertakes to co-operate with the investigation, while keeping the application pending, this Court is inclined to grant interim relief to the applicant.

7. In view of the above, there shall be interim relief in the following terms:

- (a) Till the next date, in the event the applicant is arrested in connection with FIR No. 0472 of 2024 dated 24.08.2024, registered at Panchavati Police Station, District Nashik City, he shall be released on bail on furnishing PR Bond of ₹ 25,000/- and one or two sureties in the like amount to the satisfaction of the trial court.
- (b) The applicant shall appear before the investigating officer on 26.09.2024 between 10:00 a.m. and 12:00 noon and thereafter as and when required by the investigating officer.
- (c) The applicant shall surrender his mobile phone and he shall not contact the informant in any manner or make any attempt to reach out to her on social media.
- (d) The applicant shall not influence the informant, witness or any person concerned with the case and shall not tamper with the evidence. He shall co-operate with the investigation.

8. Needless to say, violation of any of the aforesaid conditions may result in this order being cancelled.

9. List for further consideration on 22.10.2024, to be included in the supplementary list.

(MANISH PITALE, J)