



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPEAL NO.657 OF 2025

KAMAL CHIB @ KANHAIYA LAL CHIB

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...
Shri Shailesh S. Chapalgaonkar, Advocate a/w Shri Deepak
Sahni, Advocate for the appellant.
Shri D.B. Bhange, APP for respondent Nos.1 and 2/ State.
Shri Avinash R. Salve, Advocate for respondent No.3.
...

CORAM : SUSHIL M. GHODESWAR, J.

DATE : 03 October, 2025

P. C. :-

1. By this appeal, the appellant prays for grant of anticipatory bail in connection with Crime bearing FIR No.177/2025 registered on 19.02.2025 with Shirdi Police Station, Taluka Rahata, District Ahilyanagar, for offences punishable under Sections 376(2)(n), 323, 504, 34 of the Indian Penal Code and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, 'the Atrocities Act').

3. Respondent No3/ informant lodged the said FIR alleging that the informant met first time to the appellant in 2003 and thereafter, there used to be frequent meetings between them and their relations developed. It is alleged that the informant gave money from time to time to the appellant. In 2009, the appellant showed his intention to marry with the informant and since then, there was consensual physical relationship between them. It is alleged that in 2017, when the informant was in Delhi, the appellant showed images and videos of their physical relations and blackmailed her. It is alleged that on 19.11.2023, when they were at Shirdi, the appellant is alleged to have assaulted and abused her in the name of her caste. On the basis of these allegations, the informant lodged the report on 19.02.2025.

4. Learned advocate for the appellant submitted that the appellant is aged about 58 years whereas, respondent No.3/ informant is aged about 48 years. There was consensual physical relations between them since 2003. The appellant is businessman. There are also financial transactions between them. The allegations under the Atrocities Act are reported for the first time in 2023 at Shirdi and that too after 20 years of their

relationship. According to learned advocate, the informant also reported complaint with Gurgaon Police Station on 22.10.2024 and the police had duly enquired the said complaint and recorded the statements of witnesses and filed negative report as the complaint was vague and baseless. According to the appellant, the informant herself had booked air tickets for their journey between Delhi to Shirdi in 2023 and vice versa. They had attended family functions together and photographs were also clicked. They shared cordial relationship even after the alleged incident.

5. Learned advocate for the appellant further submitted that on 17.09.2024, the informant had visited Delhi and the settlement agreement between them was also executed before the Notary. According to learned advocate, the informant/ victim would have never met the appellant and agreed to settle the dispute by accepting Rs.22.5 lacs if there had been any such grievance against the appellant. A bare perusal of FIR itself discloses that the informant is political and social activist and used to go to Delhi since 2003 where she met the appellant. In view of their friendly relationship, the appellant had taken her to

his house and she used to extend financial help to him. Thus, bare perusal of the FIR does not inspire confidence and as such, no offence is said to be committed by the appellant. It is specifically stated that there is inordinate and unexplained delay in lodging the FIR. The parties have also tried to settle the dispute by executing the settlement agreement on 17.09.2024. Therefore, the appellant deserves to be released on anticipatory bail.

8. *Per contra*, learned APP opposed the instant appeal and relied on the affidavit filed by the Sub Divisional Police Officer, Shirdi. According to learned APP, the investigation in respect of alleged crime is in progress. Mobile of the accused and the card used by him to pay bills of hotels where the victim had stayed, are to be seized. The appellant/ accused is also required to be medically examined. There are eyewitnesses, who had stated that the informant was subjected to caste based abuses. Therefore, in view of the bar under Section 18-A of the Atrocities Act, the appellant is not entitled for grant of anticipatory bail.

9. During the course of hearing, I have also heard learned advocate for respondent No.3/ informant, who stated that

the appellant had suppressed from the victim that he is married and by taking into confidence, he kept sexual relations with her by taking her to various hotels and lodges at Delhi and nearby areas. The appellant had also promised her to perform marriage with her. He also tried to blackmail her on many occasions. He, therefore, prayed that the instant appeal for grant of anticipatory bail be rejected.

10. After having considered submissions of learned advocates for the parties and having perused the record made available to me, it is apposite to take note of the fact that from complaint itself it appears that the informant is an active social worker and involved in political field. For the said purpose, she used to visit Delhi. Since 2003, the appellant is known to her. As per allegations in the FIR, sexual relationship between them started from 2009. It is alleged that the appellant/ accused induced the victim for the purpose of marriage and repeatedly committed sexual relations with her. However, it is significant to note here that though in 2012, the informant came to know that the appellant is already married and he is staying with his family, still their relations continued upto 2023 when on 19.11.2023 the

appellant visited Shirdi and is alleged to have committed sexual intercourse and also alleged to have assaulted and abused her.

11. Looking to acquaintance of the appellant with the informant since 2003 and their age as on date, the instant appeal needs to be considered. As per allegations and material produced before me, the appellant is staying in Gurugram in the State of Haryana whereas, the informant is resident of Rahuri taluka of Ahilyanagar district. The prosecution claims that the appellant has objectionable video clips and photographs stored in his mobile and his mobile is required to be seized. Another material, which is required to be seized from the appellant, is credit/ ATM card which he has allegedly used for withdrawing money and paying bills. Third aspect on the basis of which prosecution claims his custody is that he is to be medically examined. Learned advocate for the appellant has stated that he is ready to cooperate with investigation and comply with all conditions as may be imposed, provided he is protected.

12. It is apposite to note here that anticipatory bail is device to secure individual's liberty. The power under Section 438 of the Code of Criminal Procedure to grant anticipatory bail

is to be exercised on the basis of available material and facts of a particular case. Where the accused is ready to join investigation and is also ready to cooperate with investigation agency and is not likely to abscond, in that event custodial interrogation should be avoided. Although there is bar under Section 18-A of the Atrocities Act, however, duty is cast upon the Court to verify averments in the complaint and to find out whether, the offence under the Act has been *prima facie* made out or not? If there is specific averment in the complaint as regards insult or intimidation with intent to humiliate the victim by calling caste name, then the accused is not entitled to anticipatory bail. However, nature and gravity of accusations and exact role of the accused is required to be properly comprehended before arrest is made.

13. In *Prathvi Raj Chauhan vs Union Of India*, AIR 2020 SC 1036 and *Shajan Skaria vs. State of Kerala*, 2024 SCC Online SC 2249 : 2024 INSC 625, the Honourable Supreme Court observed that there is no absolute bar on granting anticipatory bail and in cases where no *prima facie* materials exist in the offences under the Atrocities Act, the Court has the inherent power to

direct a pre-arrest bail.

14. In view of the above discussion and after evaluating entire material against the appellant carefully, *prima facie* I am of the view that the prayer for grant of anticipatory bail to the appellant can be considered as no prejudice would be caused to the prosecution while conducting free, fair and full investigation. As custodial interrogation is sought only on above aspects of procuring incriminating material against the appellant, I am of the view that the appellant can be protected by directing him to supply aforesaid material and make himself available to the investigating officer. Hence, the following order:

ORDER

a) In the event of arrest of the appellant in connection with Crime bearing FIR No.177/2025 registered on 19.02.2025 with Shirdi Police Station, Taluka Rahata, District Ahilyanagar, for offences punishable under Sections 376(2)(n), 323, 504, 34 of the Indian Penal Code and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(1)(r), 3(1)(s), 3(2)(v) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, he shall be released on furnishing PR bond of Rs.25,000/- [Rupees Twenty Five

Thousand Only] with one solvent surety/ security in the like amount.

b) The appellant shall attend the concerned police station on 10.10.2025 (Friday) and shall produce mobile handset and credit/ ATM card as required by the Investigating Officer and shall also made himself available for medical examination. Thereafter, the appellant shall attend the said police station as and when called by the Investigating Officer till filing of charge-sheet.

c) The appellant shall not try to contact or pressurize the witnesses or the informant, in any manner whatsoever.

15. However, it is made clear that the observations made in this order are *prima facie* in nature for the purpose of adjudication of this appeal.