

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

Anticipatory Bail Application No. 3063 of 2024

Kapil Bhavarlal Badsewal

Age 44 years, Occu. - Business,

R/o. 69/691, MHB Colony,

Laxmi Darshan, Mahvir Nagar,

Kandivali West, Mumbai – 400 067.

... Applicant

versus

1. The State of Maharashtra

(Through the P.I. Kashmira Police
Station, Thane)

2. Smt X.Y.Z.

... Respondents

Mr Sachin R Pawar, for the Applicant.

Mr Swapnil Pednekar, APP, for Respondent No.1 / State.

Mr Mushtaq Shaikh, for Respondent No.2.

Coram: R.N. Laddha, J.

Date: 10 June 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in connection with CR No.421 of 2024, registered at Kashimira Police Station, Thane, for offences punishable under Sections 376, 328, and 384 of the Indian Penal Code.

2. The prosecution alleges that the applicant, under the guise of a business meeting, lured the informant into a hotel room where he administered sedative substances to render her unconscious and then engaged in non-consensual sexual intercourse. He recorded the entire incident on video and threatened the informant against disclosing it to anyone. Following this, the applicant extorted a significant sum of money from her, threatening to share the indecent video on social media. To prevent any humiliation, the informant complied with his demands and transferred Rs.10,98,000/- to him.

3. Heard Mr Sachin Pawar, the learned Counsel appearing on behalf of the applicant, Mr Swapnil Pednekar, the learned Additional Public Prosecutor representing respondent No.1/ State, and Mr Mushtaq Shaikh, the learned Counsel appearing on behalf of respondent No.2.

4. The learned Counsel appearing on behalf of the applicant contends that the informant borrowed funds from the applicant and refused to fulfil her financial obligations. Disputes persisted between them, leading to the filing of non-cognisable complaints by the applicant against the informant on 17 August 2023 and 6 December 2023. In the intervening period, the informant also lodged a non-cognisable complaint against the

applicant on 5 November 2023 alleging cheating and misappropriation, not rape. The police closed this complaint, stating it was a civil dispute. To evade her liabilities and to extract money from the applicant, the informant retaliated by lodging the present crime, falsely implicating the applicant. The learned Counsel highlights the considerable delay in reporting the crime as the alleged incidents occurred between September 2021 and November 2022. Yet, the complaint was lodged only in August 2024, without providing any explanation. He further contends that the applicant never expressed any grievance until the filing of the FIR. Furthermore, Mr Pawar submits that the applicant possesses no criminal antecedents and has demonstrated full cooperation during the investigation, which is nearing its conclusion, with no further material to be recovered or discovered at the applicant's behest. Additionally, the learned Counsel submits that the applicant is willing to adhere to any conditions set forth by this Court if released on bail.

5. The learned Additional Public Prosecutor representing respondent No.1/ State and the learned Counsel appearing for respondent No.2 jointly oppose the applicant's request. They submit that the allegations are of a serious nature, and if the applicant is released on bail, he may tamper with the evidence

or influence witnesses. However, the learned APP fairly acknowledges that the applicant has cooperated with the investigation, which is now complete, and a charge sheet will be filed within one week.

6. This Court has given anxious consideration to the rival contentions and perused the records.

7. It appears from the records that both the applicant and the informant have filed multiple complaints against each other over a period of time. The alleged incidents forming the basis of the present crime are stated to have occurred between September 2021 and November 2022. Following these events, the informant initiated several complaints against the applicant, making allegations of cheating and misappropriation. Notably, in these earlier complaints, there was no mention whatsoever of any allegation of sexual assault. It is only in August 2024, a significant lapse of time since the alleged incidents, that, for the first time, the informant accused the applicant of sexual assault. This delay in raising such serious allegations, particularly when the informant had previously approached the authorities with other grievances, *prima facie* raises serious doubts regarding the veracity and genuineness of the present accusations. Furthermore, the learned APP has fairly submitted that the applicant has extended cooperation during the course of

investigation. The investigation is stated to be complete, and the charge sheet is expected to be filed shortly. The prosecution's concerns about potential evidence tampering and witness influence can be addressed by imposing suitable conditions. Hence, the following order:

ORDER

(i) In the event of the applicant's arrest in connection with CR No.421 of 2024, registered at Kashimira Police Station, Thane, 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 indulge in any activities that may tamper with the evidence or influence witnesses.

8. The application stands disposed of accordingly.

9. It is clarified that the observations in this order are *prima facie* and confined to determining the applicant's entitlement to pre-arrest bail.

(R.N. Laddha, J.)