

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.754 OF 2025

Prasad Gawankar ...Applicant
Versus
State Of Maharashtra ...Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.755 OF 2025

Alisha Kalkair ...Applicant
Versus
State Of Maharashtra And Anr ...Respondents

Mr. Kushal Mor a/w. Mr. Virendra Vikram a/w. Adithi Rao i/b M/s.
Khaitan & Co., Advocate for the Applicant.

Mr. Nitin B. Patil, APP for the State in ABA/754/2024.

Mr. Avinash A. Naik, APP for the State in ABA/755/2024.

CORAM : RAJESH S. PATIL, J.

DATED : 18 MARCH 2025

P.C.:

1. The present applicant in Anticipatory Bail Application No. 754 of 2025 claims to be working as Lead - Key Account Management at O(1) India Private Limited ("the Company"), while the present applicant in Anticipatory Bail Application No. 755 of 2025 is working as Associate - Catalog Management at O(1) India Private Limited.
2. The present anticipatory bail applications have been filed for

transit bail in connection with an FIR registered with the Cyber Crimes Police Station, Hyderabad, being FIR No. 235 of 2025. It is submitted that the names of the present applicants do not appear in the FIR. However, an article published in *The Hindu* on 7 March 2023, mentioned the manufacturing and selling of counterfeit hair oils, wherein the names of the present two applicants were mentioned. Therefore, these anticipatory bail applications have been filed for transit bail.

3. It is submitted that both applicants are residing and working in the city of Thane which is part of Mumbai Metropolitan region. They have no criminal antecedents. They are married, and reside with their families. As per Section 79 of the Information Technology Act, 2000, there is an exemption of liability for intermediaries. The present applicants are working with the company O(1) India Private Limited, which operates an online platform called "ROPOSO CLOUT." The said platform merely facilitates the sale of products and explicitly states that it is not responsible for any defects in the products sold. Furthermore, if any product is found to be counterfeit, it is promptly removed from the platform.

4. It is submitted that on January 28, 2025, a complaint was received by ROPOSO, as enclosed on page 29. Immediate action was taken, and the subject product was removed from the ROPOSO website.

Therefore, the company is protected under Section 79 of the IT Act.

5. As far as the present applicants are concerned, they are employees of the company and are not part of its management. Thus, they have no role to play in the alleged offense. However, they are willing to cooperate with the Cyber Crimes Police Station, Hyderabad, and are ready to travel to Hyderabad if required by the concerned police authorities.

5.1. The learned Advocate for the applicants relies upon the judgment passed in *Google India Private Limited v. Visaka Industries*, reported in (2020) 4 SCC 162. He specifically refers to paragraph No. 53 of the said judgment.

6. The learned APP submits that the crime was registered in Hyderabad. However, a plain reading of Section 79 of the IT Act provides protection to intermediaries. The present applicants are employees of the said intermediary company. Therefore, if protection is granted to the intermediary company, its employees should also be protected.

6.1. The learned APP relies upon the judgment in *Shreya Singhal v. Union of India*, reported in AIR 2015 SC 1523. He referred to paragraph Nos. 106 and 199(d).

7. Having heard the learned advocates for both sides, I am satisfied

that Section 79 of the IT Act protects intermediaries. Section 79 of the IT Act reads as follows:

8. The present applicants are merely employees of the intermediary company. Hence, at this stage, it would suffice if they are directed to attend the concerned police station and they be granted protection from being arrested.

9. Stand over to April 2, 2025. Matter to come up under the caption “For Urgent Category.” In the meanwhile, following directions are passed :-

(a) The applicants are directed to attend the office of the Cyber Crimes Police Station Hyderabad on March 24, 2025, between 11:00 a.m. and 1:00 p.m. and thereafter as and when required.

(b) For a period till 2 April 2025, no coercive steps shall be taken against the present applicants. However, the investigation may proceed further.

(c) The applicants are permitted to file necessary applications as advised before the appropriate court in the State of Hyderabad.

10. Issue notice to the Respondents, returnable on 2 April 2025.

11. Apart from Court notice, the Applicant is permitted to serve the Respondent by advocate’s private notice, by all permissible modes of service and file affidavit of service before the next date of hearing.

(RAJESH S. PATIL, J.)