

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 ...Respondent

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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/754/2025.

Mr. Avinash A. Naik, APP for the State in ABA/755/2025.

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CORAM : RAJESH S. PATIL, J.

DATED : MARCH 21, 2025

PC.:

1. This matter has been moved for Speaking to the Minutes of order dated 18 March 2025.

2. In **Paragraph No. 4, Line No. 1** of the order dated **18 March 2025**, the date is incorrectly mentioned as **“28 January 2025.”** It shall be substituted with **“21 January 2025”** in place of **“28 January 2025.”**

3. Furthermore, in **Paragraph No. 4, Line No. 2** of the said order, the reference to **“page 29”** is incorrect. It shall be substituted with **“page 44”**

in place of “page 29.”

4. In **Paragraph No. 7, last line** of the order dated **18 March 2025**, after the word “**follows**”, the following text shall be added:

“79. Exemption from liability of intermediary in certain cases.–(1) Notwithstanding anything

contained in any law for the time being in force but subject to the provisions of sub-sections (2) and (3),

an intermediary shall not be liable for any third party information, data, or communication link made

available or hosted by him.

(2) The provisions of sub-section (1) shall apply if–

(a) the function of the intermediary is limited to providing access to a communication system over which information made available by third parties is transmitted or temporarily stored or hosted; or

(b) the intermediary does not–

(i) initiate the transmission,

(ii) select the receiver of the transmission, and

(iii) select or modify the information contained in the transmission;

(c) the intermediary observes due diligence while discharging his duties under this Act and also observes such other guidelines as the Central Government may prescribe in this behalf.

(3) The provisions of sub-section (1) shall not apply if–

(a) the intermediary has conspired or abetted or aided or induced, whether by threats or promise or otherwise in the commission of the unlawful act;

(b) upon receiving actual knowledge, or on being notified by the appropriate Government or its agency that any information, data or communication link residing in or connected to a computer resource controlled by the intermediary is being used to commit the unlawful act, the intermediary fails to expeditiously remove or disable access to that material

on that resource without vitiating the evidence in any manner.

Explanation.—For the purposes of this section, the expression —third party information means any information dealt with by an intermediary in his capacity as an intermediary.”

4. Rest of the order remains unaltered. Original order to be corrected accordingly.

(RAJESH S. PATIL, J.)