

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 784 OF 2025

KUNAL SURESH GOSAVI

..... APPLICANT

VERSUS

STATE OF MAHARASHTRA & ANR.

..... RESPONDENTS

Mr. Amol Ekhaspur i/b. Mr.Kaushik Mhatre for the Applicant.

Ms. Rutuja A. Ambekar, A.P.P. for the State.

Mr. P. H. Yemmewar, A.P.I., M.I.D.C. Police Station, Andheri East present.

CORAM : RAJESH S. PATIL, J.

DATE : 15th APRIL, 2025

P.C. :-

This application is filed for pre-arrest bail under Section 438 of the Code of Criminal Procedure, 1973 in connection with Crime No. 101/2025 dated 26th February, 2025 registered with MIDC Police Station, Mumbai for the offences punishable under Sections 75, 78, 79, 351 (2) and 352 of the Bharatiya Nyaya Sanhita, 2023.

2. Based on the complaint, an FIR has been lodged. The role of the present applicants is mentioned in the said FIR.

3. Mr. Eklaapurib, learned counsel for the applicant submits that the applicant is employed with Employee's State Insurance Corporation (ESIC). His family friend one Mr. Sandeep Divekar also working with ESIC, who unfortunately got engage into extra marital affair with the first informant. As a friend, the applicant tried to resolve the issue and save the marriage of his friend Sandeep Divekar. The first informant was not happy with action of the present applicant therefore, when she came across with the present applicant on 1st December, 2024, at the center of medical check-up in Andheri MIDC ESIC Hospital, there was altercation between the present applicant and the first informant. Due to which, NC's were lodged. Since the parties were working in the same organization, the first informant also lodged complaint with her employer against the present applicant. An Internal Complaints Committee (ICC) was formed. However, after hearing even before the said Committee, no relief was granted to the first informant. According to the applicant being frustrated with not getting any relief, on false grounds, a criminal complaint was filed by the first informant. In the said criminal complaint, an FIR has been lodged under Section 75, 78, 79, 35(2) and 352 of Bharatiya Nyaya Sanhita, 2023. Hence, apprehending arrest, the present pre-arrest bail

application has been filed by the applicant. The applicant is staying with his family and is working with the ESIC. The applicant does not have any criminal antecedents, the applicant is ready to co-operate with the Investigating Officer. The custody of the present applicant is not necessary.

4. The learned A.P.P. has opposed the present application. It is submitted by the learned A.P.P. that if pre-arrest bail is granted, applicant will pressurize the first informant, hinder investigation and tamper with evidence.

5. I have heard learned counsel for both the sides and I have considered the documents on record.

6. The case of the present applicant is that he tried to save his friend Sandeep Divekar working in the same company ESIC from getting involved in a extra marital relationship with the first informant. The wife of his friend Sandeep Divekar, has filed an affidavit before this Court on 1st April, 2025, paragraphs 6 to 11 of the said affidavit records the conduct of the first informant. The said paragraphs are reproduced hereinbelow :-

6) That on 11/11/2024 when Mr. Sandeep Vithoba Divekar was with the prosecutrix, the Applicant gave a call on his mobile and was counselling him about the

illegality of this relationship, Mr. Sandeep Vithoba Divekar was chatting with the Applicant and the speaker of his mobile phone was 'ON'. The prosecutrix heard said conversation and threatened the Applicant of dire consequences in the form of false criminal prosecution for offence related to women.

7) That on 11/12/2024 when Applicant alongwith his daughters OPD of ESIC hospital at Andheri, MIDC as younger daughter had issue of cough and cold, whereas elder daughter had skin related ailment, when after attending consultation Applicant saw complainant/prosecutrix at OPD, he knew she will create ruckus, therefore Applicant informed nurse on duty Sangeeta Borate about her untoward behaviour and started audio recording in his mobile, as the Applicant passed by Complainant she started abusing her in filthy language, still Applicant ignored but Complainant by taking undue advantage of being a woman caught Applicant by his collar and slapped him, as for no reason Applicant was assaulted, applicant relied by slapping her. Complainant approached MIDC Police Station after hearing both sides and verifying audio recording as well as CCTV Footage both of them were warned and let off.

8) I say that my husband Mr. Sandip Divekar addressed a letter dated 17/12/2024 to medical superintendent, ESIC hospital, MIDC admitting his extra- marital affair with the complainant and exchange of monetary transactions between them. Sandip Divekar also admitted that Applicant intervened to save his marriage which resulted in Applicant being targeted as the tool of vengeance and submitted what's app chat and monetary transaction evidence.

9) I say that prosecutrix attempt to lodge a false criminal prosecution against Applicant did not bear

fruit therefore she lodged a false complaint of sexual harassment at workplace before ICC of SRO Marol on 16/12/2024, for which notice was issued to Applicant on 30/1/2025.

10) I say that my husband Me Sandip Divekar and Nurse Sangita Borate had appeared before ICC and deposed as a witness regarding true state of affairs.

11) I say that prosecutrix realized that ICC committee will close this proceeding on the grounds of false allegations therefore pressurized MIDC Police Station to register a false case in the form of CR No. 101 of 2025.

7. There are no antecedents as far as the present applicant is concerned. Considering the said affidavit filed by the wife of Sandeep Divekar and going through the contents of the FIR and taking into consideration the fact that even before the Internal Complaints Committee (ICC) of ESIC, the first informant was not able to get any relief, I am satisfied that a case is made out to grant pre-arrest bail. The present anticipatory bail application is allowed. Hence, the following order :-

ORDER

(a) **The anticipatory bail application is allowed.**

(b) In the event of arrest in connection with Crime No.

101/2025 dated 26th February, 2025 registered with MIDC

Police Station, Mumbai for the offences punishable under Sections 75, 78, 79, 351 (2) and 352 of the Bharatiya Nyaya Sanhita, 2023 the applicant shall be released on bail, on furnishing P.R. bonds to the extent of Rs.20,000/- with one or more sureties of the like amount.

(c) The applicant shall co-operate with the investigation and attend and meet the Investigating Officer of the concerned Police Station on 21st April 2025 and 23rd April 2025 between 11:00 a.m. to 1:00 p.m. and thereafter as and when called.

(d) The applicant should not directly or indirectly contact the first informant in any form whatsoever.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer and further, the applicants shall not tamper with the evidence in any manner whatsoever.

(f) The applicant shall furnish details of his residential

addresses, contact numbers and e-mail addresses to the
Investigating Officer.

8. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of anticipatory bail. It is clarified that the observations made in this order are limited to the question of grant of anticipatory bail to the applicants in the present application, and that the trial Court shall proceed further, without being influenced by the observations made in this order.

9. **The anticipatory bail application is disposed of.**

[RAJESH S. PATIL, J.]