

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

ANTICIPATORY BAIL APPLICATION NO. 915/2025

PRATHAMESH SHYAM PATIL ..APPLICANT

VS.

STATE OF MAHARASHTRA & ANR. ..RESPONDENTS

Adv. Akshay Bankapurkar a/w. Adv. Sagar Tambe i/b. Adv.Nishant Mokal for applicant.

Ms. Supriya Kak, APP for State.

Adv. Nitesh Mohite for respondent no.2.

WPSI Sonali Patil, Narpoli Police Station, Bhiwandi.

CORAM : RAJESH S. PATIL, J.

DATE : APRIL 15, 2025.

P.C. :

1. In the present proceeding, the offences punishable under Section 64 of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 have been attracted.

2. On the basis of the complaint, an FIR has been filed. It is submitted on behalf of the applicant that the applicant is a student. He has handed over his i-phone, i-pad and laptop to the IO along with their passwords. The applicant was known to the victim girl while they were studying in college. In the month of December 2018, their friendship had developed and thereafter, there was sexual

intercourse between them. The victim girl thereafter got married on 6/8/2021 and after marriage she is in contact with the present applicant. The applicant tried to avoid make any kind of conversation with the victim girl, however, she on her own kept on contacts with the present applicant. There was settlement between the parties, however, since the applicant was not able to fulfill all the conditions of settlement, with the ulterior motive the present FIR has been lodged. The applicant has cooperated with the police, therefore, there is no need of his custody. There is no criminal antecedent reported against the applicant. The applicant is studying to appear for CET examination (Law).

3. The learned APP appearing for the State and the learned counsel appearing for the respondent no.2 have opposed this application. They submitted that there are various chats which show that the present applicant is threatening the victim girl after her marriage also that he will use her nude photographs and make it public and he was not ready to delete the same from his electronic gadgets. In fact, he had threatened that even though he threatened the victim girl that if he deletes the said photographs and videos, the backup of the same has already been given by him to his friends. On the basis of these threats, the victim girl had no option but satisfied

the sexual demands made by the present applicant. She was forced to be in contact with the present applicant.

4. Even when the victim girl was a minor, the present applicant has without her permission indulged into sexual activities with the victim girl. Hence, there is need of the custody of the present applicant after he submitted his mobile phone to the IO. The IO was able to recover deleted objectional pictures of the victim girl from the recently deleted folder. The statement of the victim girl under Section 164 of the Code of Criminal Procedure specifically mentions the acts of the present applicant. The victim girl, in fact, in the month of March 2023 tried to commit suicide, however, she was saved. So also, the brother of the present applicant had threatened the husband of the victim girl and N.C. to that effect has been lodged against the brother of the present applicant.

5. Heard the learned counsel for the applicant, the learned APP and the learned counsel for the respondent no.2. I have also gone through the FIR and the documents on record including relevant chats.

6. The chats dated 20/3/2023 between the applicant and the victim girl clearly show that the applicant is threatening the victim

girl of releasing her objectional photographs and videos which he had recorded before her marriage and while she was minor. It further shows that she has been requesting and pleading with him not to release the said photographs and videos and to delete all those photographs and videos. She further also begged with him that even he has a sister and at least from that angle, he should delete the photographs and videos of the victim girl. She has further pleaded with him that he has left her no option but to commit suicide. The reply of the present applicant to the requests and pleadings made by the victim girl is that, don't try to create a issue and even though he deletes the objectional photographs and videos of the victim girl, the backup of the said photographs and videos are also been given by him to his friends.

7. With this kind of chats which are shown to this Court, thereafter, rest of the chats which have been shown by the applicant's counsel, in my view and in real sense, would have no meaning because, the applicant himself has stated that the backup of all the photographs and videos are with his friends. The details of such friends have not been disclosed by the applicant to the IO. The IO was able to recover the objectional pictures from the recycle bin of the i-phone of the present applicant. The victim girl even in her

statement under Section 164 recorded by the police has stood by her complaint. The victim girl is married on 6/8/2021. She also once tried to commit suicide in the month of March 2023, being harassed by the present applicant, by an air-gun, however, she was saved at that time.

8. Considering the act of the present applicant and on the basis of the whats-app messages gathered, it is proved that the applicant tried to threatened the victim girl. According to me, the physical presence of the applicant for interrogation is necessary for completion of the investigation. Moreover, the possibility of pressurizing and threatening witnesses and tampering with the evidence cannot be ruled out.

9. The Supreme Court in case of *Sumitha Pradeep vs. Arun Kumar C.K. and another*¹ in paragraph 12 has held as under :-

“12..... In many anticipatory bail matters, we have noticed one common argument being canvassed that no custodial interrogation is required and, therefore, anticipatory bail may be granted. There appears to be a serious misconception of law that if no case for custodial interrogation is made out by the prosecution, then that alone would be a good ground to grant anticipatory bail. Custodial interrogation can be one of the relevant aspects to be considered along with other grounds while deciding an application seeking anticipatory bail. There may be many cases in which the custodial interrogation of the accused may not be required, but that does not mean that the prima facie case against the accused should be ignored or overlooked and he should be granted anticipatory bail. The first and foremost thing that the court hearing an anticipatory bail application should consider is the prima facie case put up against the accused.

1 (2022) 17 SCC 391

Thereafter, the nature of the offence should be looked into along with the severity of the punishment. Custodial interrogation can be one of the grounds to decline anticipatory bail. However, even if custodial interrogation is not required or necessitated, by itself, cannot be a ground to grant anticipatory bail.”

(Emphasis supplied)

10. A similar view has been taken by the Supreme Court in the case of the *C.B.I. vs. Anil Sharma*², in paragraph 4 which reads as under:-

“4. We find force in the submission of the CBI that custodial interrogation is qualitatively more elicitation oriented than questioning a suspect who is well ensconced with a favorable order under Section 438 of the Code. In a case like this effective interrogation of suspected person is of tremendous advantage in disinterring many useful informations and also materials which would have been concealed. Success in such interrogation would elude if the suspected person knows that he is well protected and insulated by a pre-arrest bail during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the custodial interrogation is fraught with the danger of the person being subjected to third degree methods need not be countenanced, for, such an argument can be advanced by all accused in all criminal cases. The Court has to presume that responsible Police Officers would conduct themselves in a responsible manner and that those entrusted with the task of disinterring would not conduct themselves as offenders.”

(Emphasis supplied)

11. Taking into consideration the contents of the FIR and the documents produced before me and the law laid down by the Supreme Court as noted above, **the anticipatory bail application of the applicant stands rejected and disposed of accordingly.**

(RAJESH S. PATIL, J.)

2 AIR OnLine 1997 SC 797