

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.993 OF 2025

Tanvi Nikhil Gupta	...Applicant
<i>Versus</i>	
The State of Maharashtra and anr.	...Respondents

Ms. Vrushali Maindad (through VC) a/w Christina Fernandes for Applicant.
Ms. S.M. Yadav, APP for the State.
MR. S.M. Mangaonkar, APP for the State.
Ms. Mansi V. Dande, Advocate for Respondent No.2.
API, Vinayak Damodhar Ahire, Wagholi Police Station, Pune City present.

CORAM: MADHAV J. JAMDAR, J.
DATED : 19th December 2025

P.C.:

1. Heard Ms. Maindad, learned Counsel appearing for the Applicant, Ms. Mansi Dande, learned Counsel for Respondent No.2 and Ms. Yadav, learned APP on earlier dates and Mr. Mangaonkar, learned APP for the State.

2. By this application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS"), the Applicant is seeking pre-arrest bail in connection with C.R. No.51 of 2025 registered with Lonikand Police Station, Pune City, for the offences

punishable under Sections 316(2), 316(3), 318(4), 3(5) of the Bharatiya Nyaya Sanhita, 2023 (“BNS”).

3. It is the submission of Ms. Maindad, learned Counsel for the Applicant that as the First Informant is involved in a serious crime of sexual assault and the Applicant is the victim of the said crime, false F.I.R. has been filed being C.R. No.51 of 2025 (subject F.I.R.) as counterblast to the F.I.R. which has been lodged by the Applicant. She submits that in fact the First Informant wanted to extort huge amount from the Applicant and her husband and for that purpose false complaints are filed and thereafter false F.I.R. has been registered. She points out Whatsapp chat between the Applicant and the First Informant and also points out a Whatsapp message sent by Advocate of the First Informant to the learned Advocate of the Applicant, wherein it is specifically mentioned about any offer in Tanvi- ABA matter for amicable settlement. Learned Counsel submits that therefore it is very clear that the false F.I.R. has been filed to extort money. She submits that although the entire basis of the F.I.R. is the CCTV footage and no proper procedure as contemplated by the Supreme Court in the

case of **Arjun Khotkar Vs. Kailas Kushanrao Gorantyal**¹ and provisions of Section 65(b) of the Evidence Act are not followed. She submits that the Applicant is a neighbour of the First Informant and the Applicant has no intention to commit the offence. False F.I.R. has been lodged as a counter blast to the F.I.R. lodged by the Applicant concerning the serious offence of sexual assaults committed by the First Informant. Learned Counsel submits that the incident in question has taken place on 17th November 2024 and the F.I.R. has been lodged on 15th June 2025. Thus there is substantial delay in filing the F.I.R. Learned Counsel further submits that the Applicant has cooperated with the investigation after interim protection has been granted to the Applicant. Learned Counsel therefore submits that the Anticipatory Bail Application be granted.

4. On the other hand, Ms. Yadav, learned APP strongly opposes granting Anticipatory Bail Application. She submits that the Applicant is neighbour of the First Informant and when the First Informant and the family went outside for vacation, keys of the house of the First Informant were kept with the Applicant's family

¹ (2020) 7 SCC 1

and during that time, the Applicant has entered the house of the First Informant on the pretext of watering the plant and cleaning the flat and committed theft of gold ornaments of 58 Tolas (580 gms.). She submits that the CCTV footage clearly shows that the Applicant is involved in the crime and therefore custodial interrogation is necessary.

5. Ms. Mansi Dande, learned Counsel for the Respondent No.2 pointed out detailed contention raised in the Affidavit-in-Reply of the Respondent No.2. She submits that CCTV footage clearly shows that the Applicant who is the neighbour has entered the house and while entering the bedroom, changed the position of camera. It was noticed that the Applicant opened the inside drawer of the cupboard and closed the cupboard and left the house. She submits that the Applicant has done cleaning work of flat with the help of one lady and the Applicant specifically asked whether the cleaning work of bedroom was to be done and the First Informant had informed that bedroom should not be cleaned and inspite of the same, the Applicant entered the bedroom and changed the position of camera and after 3-4 minutes, she arranged CCTV camera to its original position. She submits that after it was found that the gold

was missing, the CCTV footage was seen and same was shown to the Applicant and his family and father of the Applicant told that the Applicant had committed grave mistake and assured that entire gold would be returned back. She submits that thereafter on 1st December 2024, the Applicant alongwith her father left for Kota, Rajasthan and false F.I.R. being "0" F.I.R. has been lodged with Kota Police Station, Rajasthan on 14th January 2025 making false allegations of rape against the First Informant and thereafter the same was transferred to Wagholi Police Station, Pune and in that case, the Applicant has been granted anticipatory bail. She also pointed out the observations made in the order granted anticipatory bail to the Applicant in said crime. She therefore submits that not only the offence is very serious, but thereafter attempt is made to file false F.I.R. alleging rape and therefore it is clear that the Applicant is not only involved in a serious crime, but creating false evidence. She therefore submitted that the anticipatory bail be not granted.

6. Before consideration of the rival contentions, it is necessary to set out relevant portion of the F.I.R., which has been registered

on 15th January 2025 with Lonikand Police Station, Pune. The relevant portion of said F.I.R. reads as under :

“ समक्ष वाघोली पोलीस स्टेशन पुणे पंथे हजर राहुन जबाब देतो की, मी वरील ठिकाणी मी, माझी पत्नी पारुल वय 34 वर्ष व मुलगा आर्विंदक वय 5 वर्ष, भाविक वय 5 महिने यांचेसह राहण्यास आहे. मी वोडाफोन, विमाननगर कंपनीमध्ये काम करीत आहे. आमचे समोरच फ्लॅट नं.ए-3/904 मध्ये निखील गुप्ता यांचे कुटुंब राहण्यास आहे. आम्ही दोघे गेले चार वर्षांपासून शेजारी शेजारी राहण्यास असून आमची चांगली ओळख झाली आहे. माझा मुलगा लहान असल्याने तो घराचा दरवाजा आतुन बंद करायचा. त्यामुळे आम्ही आमचे घराची एक चावी गुप्ता यांचेकडे तीन वर्षांपूर्वी त्यांचेकडे ठेवण्यास दिली होती

आमचेकडे माझे, पत्नी पारुल, व मुलांचे असे अंदाजे 58 तोळे सोने असून ते मी बेडरूममधील कपाटात लॉकरमध्ये लॉक करून ठेवले होते. दिनांक 20/10/2024 रोजी दुपारी 04/00 वा सुमारास करवाचोतचा कार्यकम असल्याने माझे पत्नीने सोने ठेवलेले लॉकर उघडले असता, सोने ठेवलेले काही बॉक्स उघडले असता त्यामध्ये सोन्याचे दागिने मिळून आले नाही आम्ही खात्री करून चेक केले असता 04 तोळे सोन्याचे दागिने आम्हाला लॉकर मध्ये मिळून आले नाही. त्यामुळे आम्ही घरात सर्वत्र गहाळ झालेल्या सोन्याचे दागिन्यांची पाहणी केली असता दागिने मिळून आले नाही,

त्यानंतर दिनांक 27/10/2024 रोजी आम्ही घरातील हॉलमध्ये, बेडरूम, बेडरूमच्या एंद्न्समध्ये तीन सीसीटिव्ही कॅमेरा लावले होते व त्याचा अक्सेस माझे मोबाईल मध्ये घेतला. दिनांक 28/10/2024 रोजी आम्ही सर्वजण गावी अमरोहा, उत्तर प्रदेश येथे दिवाळी सनानिमीत गेलो होतो, आम्ही गावाला जाताना आमचे शेजारी राहणारे तन्वी गुप्ता यांना आमचे घरातील कुंड्यामधील झाडांना पाणी देण्यास सांगितले होते. आमचे घराची एक चावी त्यांचेकडे ठेवलेली होती. मी गावी गेल्यावर मोबाईल मध्ये घरातील सीसीटिव्ही कॅमेरा चेक केले असता, शेजारी राहणारे तन्वी गुप्ता यांच्या पती निखील गुप्ता हे आमचे घरामध्ये

कुडीतील झाडांना पाणी देण्यासाठी जात असे. दिनांक 17/11/2024 रोजी सायंकाळी 06/30 वाजण्याचे सुमारास मी मोबाईल मध्ये सीसीटीव्ही फुटेज चेक केले असता, दि.17/11/2024 रोजी दुपारी 02/30 वा चे सुमारास तन्वी गुप्ता या आमचे घरामध्ये येवून लाईटचा मेन स्वीच बंद केला, बेडरूमधील कॅमेरा हा बॅटरी बॅकपवर चालत असल्याने तो चालू होता. तन्वी गुप्ता यांनी बेडरूम मध्ये प्रवेश करून बेडरूमचा कॅमेरा फिरवला व त्यानंतर पुन्हा 3 ते 4 मिनीटांनी सरळ केला तेव्हा तन्वी गुप्ता यांनी कपाट उघडून त्यातील इरॉवर उघडून कपाट बंद करून निघून जाताना दिसत आहे. तसेच थोड्या वेळाने निखील गुप्ता हा सुद्धा घरामध्ये येवून रेखी करताना सीसीटीव्ही कॅमेरा मध्ये दिसत आहे, दि.18/11/2024 रोजी आम्ही तन्वी गुप्ता यांचा कॉल करून आम्ही उदया घरी येणार आहे, तुम्ही एखाद्या बाई कडून घरसफाई करून घ्या, त्यांनी एक घरकाम करणारी बाई आणून आमच्या घराची साफसफाई करून घेतली. त्यावेळी तन्वी गुप्ता यांनी मला मेरोज करून बेडरूमची सफाई करून घेवू का तेव्हा मी त्यांना मेसेज करून बेडरूमची सफाई न करण्यास सांगितले. तेव्हा त्यांनी मला पुन्हा मेसेज करून बाईने पुर्ण पैसे घेतले आहे. बेडरूममध्ये सफाई करून घेते. तेव्हा मी त्यांना मेसेज करून नकार दिला.

दिनांक 19/11/2024 रोजी रात्री 09/30 वाजण्याचे सुमारास आम्ही गावावरून घरी आलो. तेव्हा आम्ही बेडरूमधील कपाटामध्ये ठेवलेले सोन्याचे दागिने चेक केले असता आमचे दागिने मिळून आले नाही. आम्ही सर्वत्र बरात पाहणी केली असता दागिने मिळून आले नाही. बेडरूमधील कपाटाची चावी आम्ही कम्प्युटर टेबलच्या इरॉवर मध्ये ठेवलेली होती. दिनांक 20/11/2024 रोजी तन्वी गुप्ता व त्यांचे पती निखील गुप्ता यांना सायंकाळी आमचे घरी बोलावून तुम्ही बेडरूममध्ये गेले होते काय विचारले असता त्यांनी आम्ही बेडरूममध्ये गेलो नव्हतो असे सांगितले. तेव्हा मी त्यांना आमचे बेडरूममध्ये कपाटातील ठेवलेले सोने चोरी झाले आहेत असे सांगून त्यांना सीसीटीव्ही फुटेज दाखविले असता ते दोघेजण उडवाउडवीची उत्तरे देवू लागले. त्यावेळी निखील गुप्ता हे. मला म्हणाले की, तुमचे जे काही नुकसान झाले आहे ते मी भरून देण्यास तयार आहे. तुम्ही पोलीस मध्ये तक्रार करू नका आमची खुप बदनामी होईल असे मला सांगितल्याने ते आमचे सोने देण्यास तयार

असल्याने आम्ही त्यांचेवर विश्वास ठेवला. दिनांक 25/11/2024 रोजी निखील गुप्ता व तन्वी गुप्ता यांचे वडील डॉ. संजीव कवात्रा व सोसायटी कमिटी मॅबर शंशाक गुप्ता असे आम्ही आमचे घरामध्ये चर्चेसाठी भेटलो: तेव्हा डॉ. संजीव हे मला म्हणाले की, जे काही झाले ते चुकीचे झाले असुन आम्ही तुमचे नुकसान भरपाई देण्यास तयार आहे असे सांगितले. त्यानंतर 01 डिसेंबर 24 रोजी तन्वी गुप्ता या त्यांचे वडीलांबरोबर गावी कोटा येथे निघुन गेल्या.-

दिनांक 14/12/2024 रोजी निखील गुप्ता यांनी माझे विरुद्ध वाघोली पो स्टेटे येथे खोटा तक्रारी अर्ज केला. दिनांक 02/01/2025 रोजी निखील गुप्ता हा त्यांचे सासु सासरे यांना घेवुन गावी कोटा येथे निघुन गेला. दिनांक 07/01/2025 रोजी मो.नं.9079098152 यावरुन फोन येवुन बजरंगनगर पोलीस चौकी, बोरखेडा पोलीस ठाणे, कोटा येथुन बोलत असुन माझे विरुद्ध तन्वी गुप्ता यांनी बलात्कार केले बाबत खोटी तक्रार दाखल केली आहे. माझा विश्वासघात करुन अपहार केलेले सोन्याचे दागिन्यांचे वर्णन खालील प्रमाणे- ”

(Emphasis added)

English translation of the same is as under :

“ I, by personally remaining present in the Wagholi Police Station, Pune, give my statement in writing as under :-

I reside at the above-mentioned address alongwith my wife Parul, age – 34 years and son Advik, age 5 years and Bhavik, age 5 months. I am working with VODAFONE Company, Vimannagar. Nikhil Gupta and family are residing in Flat No. A-3/904 opposite to our flat. We both are neighbours since last four years and are acquainted with each other very well. As my son was small, he

would lock the door of our house from inside and therefore, we had kept one key of our house with Shri Gupta before three years.

We have gold of approximately 58 tolas, belonging to myself, my wife Parul and my sons and I had kept the same locked in the locker in the cupboard in our bedroom. On the date 20.10.2024, at around 04.00 p.m., as there was the program of 'Karva Chouth', my wife opened the locker wherein the gold ornaments were kept and when she opened some boxes wherein the gold ornaments were kept, she did not find the gold ornaments therein. Therefore, when we checked to confirm the same, we did not find 04 tolas of gold ornaments in the locker. Consequently, we searched everywhere in the house for the missing gold ornaments, but could not find the said ornaments.

Thereafter, on the date 27.10.2024, we had installed three C.C.TV cameras in the hall, Bedroom and in the Bedroom's entrance in our house and I took the access C.C.TV cameras in my mobile. On 28.10.2024, we all had gone to Amroha, Uttarpradesh at our hometown for Diwali festival. While going to our hometown, I had asked our neighbour Smt. Tanvi Gupta to water the plants in the pots in our house and had kept one key of our house with her. After reaching at our hometown, when I checked on my mobile phone, the footage of the C.C.TV camera installed in my house, I saw that our neighbours by names Tanvi Gupta and her husband Nikhil Gupta would go to water the plants in the pots in our house. On the date 17.11.2024, at around 06.30 hrs in the evening, when I checked on my mobile phone, the footage of the C.C.TV camera, I noticed that on the date 17.11.2024 at around 02.30 hrs in the afternoon, Tanvi

Gupta entered our house and switched off the electric main switch. However, the camera in the bedroom was still working because it was running on battery backup. Tanvi Gupta entered the bedroom, turned the angle of the camera in the bedroom and after 3 to 4 minutes thereafter, restored its angle again. In the said CCTV footage, she is seen opening the cupboard, opening the drawer inside it, closing the cupboard and leaving. In the C.C.TV camera footage, it is also seen that some time thereafter, Nikhil Gupta is also seen entering the house and conducting recce. On the date 18.11.2024, we telephoned Tanvi Gupta and informed her that we will be returning home on the next day and asked her to get cleaned our house from one maid. Thereupon, they brought one maid and got cleaned our house. At that time, Tanvi Gupta sent me a message and asked me as to whether the bedroom should also be cleaned. Thereupon, I sent her message and told her not to clean the bedroom. Thereupon, she again sent me message and told me that the said maid had taken the full charges and that therefore, she would get cleaned even the bedroom. Thereupon, I messaged her and told her not to do so.

On the date 19.11.2024, at around 09.30 hrs at night, we came home from our hometown. At that time, when we checked the gold ornaments kept in the cupboard in our bedroom, we did not find our ornaments. We searched the entire house, but we did not find the said ornaments. We had kept the key of the cupboard in our bedroom in the computer table's drawer. On the date 20.11.2024, in the evening, I called Tanvi Gupta and her husband Nikhil Gupta at our house and asked them as to whether they had gone to our bedroom. Thereupon, they told me that they had not gone to our bedroom.

Thereupon, I told them that the gold kept in the cupboard in our bedroom was stolen and by saying this, I showed them the CCTV footage to them. Thereupon, they started giving evasive replies. At that time, as Nikhil Gupta said to me : “I am ready to compensate you for whatever losses you have incurred, please do not file a police complaint, it will bring a lot of disrepute to us” and as he was ready to return our gold to us, we trusted them. Thereafter, on the date 25.11.2024, Nikhil Gupta, Dr. Sanjeev Kavatra, Tanvi Gupta’s father and Society Committee member Shashank Gupta and I met in my house for discussion. At that time, Dr. Sanjeev said to me that whatever that had happened was wrong and that they were ready to compensate me for the losses. Thereafter, on the date 1st December, 2024, Tanvi Gupta went to Kota alongwith her father.

Thereafter, on the date 14.12.2024, Nikhil Gupta filed false complaint application against me in Wagholi Police Station. On the date 02.01.2025, Nikhil Gupta went to his Hometown at Kota alongwith his In-Laws. Thereafter, on the date 07.01.2025, I received a phone-call from mobile number 9079098152, with the Caller claiming to be from the Bajrangnagar Police Chowki, Borkheda Police Station, Kota and stating that Tanvi Gupta had filed a false complaint against me of committing rape. The description of gold ornaments that were embezzled by committing breach of my trust, is as under ”

7. Thus perusal of F.I.R. shows the following aspects :-

- i. The F.I.R. shows that on 20th October 2024 it was found that 4 Tolas (40 grams) gold was found

missing from the First Informant's house and therefore, CCTV cameras were installed in the flat of the First Informant on 27th October 2024.

- ii. On 28th October 2024 the First Informant and his family went to native place and keys of the First Informant's flat were given to the Applicant and her family for watering of the plants and cleaning the flat.
- iii. On 17th November 2024 at about 02.30 p.m., the Applicant entered the house of the First Informant and switched off the main electricity switch, however, the camera of CCTV in the bedroom continued working as it was running on battery backup. The Applicant entered in the bedroom and changed the position of the CCTV camera in the bedroom and after 3-4 minutes, again re-arranged camera to its original position. During that time, it was found that the Applicant opened the cupboard and the drawer inside it and thereafter was seen closing the cupboard and leaving. Thereafter, it was seen that Nikhil Gupta (Accused No.1) i.e. husband of the present Applicant -Tanvi Gupta (Accused No.2) also came in the said flat and both of them were seen to be

standing before CCTV camera to find out position of CCTV camera.

- iv. The first informant and his family returned back on 19th November 2024 and they found that the gold was missing and therefore, CCTV footage was checked and it was found that the Applicant i.e. Accused No.2 and her husband -Nikhil Gupta i.e. Accused No.1 have entered the flat on 17th November 2025 in the suspicious circumstances.
- v. Therefore, the First Informant called the Applicant and her husband at his residence on 20th November 2025 and asked them whether they had entered the bedroom which they denied. However, after showing the CCTV footage, the Accused No.1 i.e. husband of the Applicant requested the First Informant not to lodge any police complaint as that would damage their reputation and told First Informant that he would compensate the First Informant.
- vi. On 25th November 2025 a joint meeting was held in the house of the First Informant about the said incident between the Applicant, her husband, father of the Applicant and the committee member of the society where they are staying and

at that time, the father of the Applicant said that the Applicant and the Accused No.1 has committed mistake and therefore police complaint should not be filed and they would compensate the First Informant.

- vii. On 01st December 2024, the Applicant -Tanvi Gupta went alongwith her father Dr. Sanjiv Kavatra to Kota, Rajasthan.
- viii. Nikhil Gupta -husband of the Applicant i.e. Accused No.1 filed complaint dated 14th December 2024 with Wagholi Police Station, Pune City stating that his neighbour is trying to extort money from him.
- ix. On 02nd January 2025 Nikhil Gupta went to Kota, Rajasthan.
- x. On 07th January 2025 the First Informant received phone call from Bajrang Nagar Police Station, Borkheda Police Station, Kota stating that F.I.R. of rape has been filed against the First Informant.
- xi. The First Informant realised that by giving assurance that he would be compensated for said missing gold and requesting not to file police

complaint as reputation of the Applicant (Accused No.2) and her husband (Accused No.1) and her family would be tarnished, thereafter, false complaint regarding extortion and rape has been filed against him.

- xii. Therefore the subject F.I.R. being C.R.No.51 of 2025 has been registered with Lonikand Police Station, Pune City on 15th January 2025.

8. It is very important to note that what is seen in the CCTV footage on 17th November 2024 at about 02.30 p.m., the Applicant entered the house of the First Informant and switched off the main electricity switch, however, the camera of CCTV in the bedroom continued working as it was running on battery backup. The Applicant entered in the bedroom and changed the position of the CCTV camera in the bedroom and after 3-4 minutes, again re-arranged camera to its original position. During that time, it was found that the Applicant opened the cupboard and the drawer inside it and thereafter was seen closing the cupboard and leaving. Thereafter, it was seen that Nikhil Gupta (Accused No.1) i.e. husband of the present Applicant -Tanvi Gupta (Accused No.2) also came in the said flat and both of them were seen to be standing

before CCTV camera to find out position of CCTV camera. It is also important to note the conversation which took place on 25th November 2024 inter alia between the First Informant and the Applicant's father and committee member of the said Society which has also been recorded in CCTV and the same has been submitted for the investigation. The said conversation prima facie shows that the Applicant is involved in the crime and therefore request is made not to file F.I.R. and that the First Informant will be compensated.

9. It is also significant to note that the said "0" F.I.R. has been filed by the Applicant i.e. Accused No.2 against the First Informant with Borkheda Police Station, Kota City, Rajasthan on 14th January 2025 alleging offence under Section 376(2) (N) and 384 of the Indian Penal Code, 1860 has taken place at Pune, however, as per the subject F.I.R., the First Informant received phone call from Police officer of Bajrang Nagar Police Chowki, Kota, Rajasthan on 7th January 2025 informing that the Applicant has filed F.I.R. regarding serious offence of rape against him.

10. It is also significant to note that on 1st December 2024, the Applicant along with her father left Pune for Kota and her husband

i.e. Accused No.1- Nikhil Gupta also left for Kota on 2nd January 2025 and thereafter on 7th January 2025, the phone call from Police Officer of Bajrang Nagar Police Chowki, Kota was received by the First Informant informing him that F.I.R. has been lodged by the Applicant against the First Informant making allegations of rape and actual F.I.R. has been filed on 14th January 2025 being “0” number. The said F.I.R., which has been registered as “0” number has been transferred to Wagholi Police Station, Pune City and same is registered as C.R. No. 95 of 2025 on 31st January 2025 under Sections 376, 376(2)(N) and 384 of the Indian Penal Code, 1860.

11. It is admitted position that Accused in the said C.R. No. 95 of 2025 i.e. Gaurav Gera i.e. the First Informant in the subject crime has been given anticipatory bail by order dated 08th July 2025 passed by learned Additional Sessions Judge, Pune in Criminal Bail Application No.775 of 2025. Certain observations in the said order more particularly made in Paragraph Nos. 16, 17, 19 and 23 are relevant, which reads as under :-

“16] Upon perusal of the record, it appears that the present complaint is filed on 14/01/2025. **In the complaint there is specific mention that**

on 20/11/2024 the applicant called the complainant and her husband and told them that golden weighing 580 grams has been stolen from his house. Applicant threatened the complainant and her husband and said that "You have stolen those golden ornaments." As per the complaint applicant threatened her husband by making phone call that if you have not given Rs.45 Lakhs then he will file false complaint of theft against them. The F.I.R. also shows that applicant threatened complainant and her husband that he will send them in jail. The applicant has filed whatsapp chat along with whatsapp chat he has filed certificate required under Section 65(B) of the Evidence Act. The whatsapp chat is with Nikhil who is husband of the complainant. **Whatsapp chat shows that the husband of the complainant demanded list of ornaments stolen. Accordingly, applicant has sent the list. The husband of complainant said that he will check and respond to this.** Thereafter the whatsapp conversations between the applicant and husband of complainant dated 25th November shows that to come on conclusion for resolving the issue amicably and the husband of complainant demanded CCTV footage and gold receipt. **It appears that whatsapp conversation continued till 11/12/2024. As per the applicant on 14/12/2024 he has lodged complaint of theft against the complainant and her husband and the notice of the same has been issued to the complainant and her husband on 07/01/2025. Thereafter, this complaint on 14/01/2025 came to be lodged by the complainant at Kota and immediately on the**

next date on the basis of complaint dated 18/12/2024 the F.I.R. has been registered on 15/01/2025. That means it appears that from both the complaint when the applicant has lodged the complaint of theft against the complainant and her husband thereafter, this complaint came to be filed.

17] It appears that the complainant has made allegation of forceful physical relation established by applicant against her will for multiple times. The complaint is lodged on 14/01/2025. Before that the husband of the complainant in his hand written gave applicant to the Wagholi police station on 13/12/2024. In the said complaint not a single word has been mentioned that the applicant has established forceful physical relationship with the wife of the Nikhil Gupta. Therefore, it appears that the complainant for the first time in complaint dated 14/01/2025 made allegation against this applicant about the forceful relationship.”

(Emphasis added)

“19] I have gone through the F.I.R. Upon perusal of F.I.R. as per the complainant that the applicant and her families were visited each others house. The applicant was touching to her with bad intention. There is mention that the applicant without the knowledge of complainant came to her house and snapped her nude photographs. Thus as per the complainant that the accused has taken her

nude photographs by going to her house, the complainant has not stated when applicant came to the house, when the applicant get opportunity to snap her nude photographs. Further, the complainant stated that in March 2024 when her husband was not in the house accused came to her house, shows her nude photographs and threatened her to viral photographs established forceful physical relationship with her and threatened to viral her photographs that he will make her life and life of her husband miserable. According to the complainant the incident took place in March 2024. The applicant has produced Whatsapp chat along with certificate required under Section 65(B) of Indian Evidence Act. The whatsapp chat of 12/03/2024 to 27/03/2024 shows that the communication between the complainant and the applicant was normal. The complainant asked the applicant on 12/03/2024 that as भैया सब ठीक है ना, भाभी की तब्येत अच्छा है. The communication of the complainant and applicant appears to be normal communication.”

(Emphasis added)

“23] Thus from the whatsapp communication between the complainant and the applicant it appears that even after the alleged incident the relation between the complainant and the applicant were normal. Further, the F.I.R. clearly shows that the when the applicant threatened the complainant to send them to jail then only this complaint is filed. There was

ample opportunity to the complainant to lodge complaint before 20/11/2024. Thus in my opinion this complaint has some connection with the complaint of theft lodged by the complainant.”

12. The above observations of the learned Additional Sessions Judge made at the time of granting anticipatory bail in said F.I.R. alleging rape to Gourav Gera i.e. the First Informant in the subject crime are very relevant. The learned Additional Sessions Judge has inter alia observed as under :-

(i) The F.I.R. alleging rape was filed on 14/01/2025. In the said complaint there is specific mention that on 20/11/2024 said Gourav Gera called the complainant and her husband and told them that golden weighing 580 grams has been stolen from his house. He threatened the complainant and her husband and said that "You have stolen those golden ornaments." As per the complaint he threatened her husband by making phone call that if you fail to pay Rs.45 Lakhs then he would file false complaint of theft against them. The F.I.R. also shows that said Gourav Gera threatened complainant and her husband that he would send them in jail.

(ii) Whatsapp chat shows that the husband of the complainant demanded list of ornaments stolen. Accordingly, said Gourav Gera has sent the list. The

husband of complainant said that he would check and respond to the same.

(iii) It appears that the complainant has made allegation of forceful physical relation established by said Gourav Gera against her will for multiple times. The complaint is lodged on 14/01/2025. Before that the husband of the complainant in his hand written gave application to the Wagholi police station on 13/12/2024. In the said complaint not a single word has been mentioned that the said Gourav Gera has established forceful physical relationship with the wife of the Nikhil Gupta. Therefore, it appears that the complainant for the first time in complaint dated 14/01/2025 made allegation against Gourav Gera about the forceful relationship.

(iv) According to the complainant the incident took place in March 2024. Said Gourav Gera has produced Whatsapp chat along with certificate required under Section 65(B) of Indian Evidence Act. The whatsapp chat of 12/03/2024 to 27/03/2024 shows that the communication between the complainant and said Gourav Gera was normal. The complainant asked the applicant on 12/03/2024 that as भैय्या सब ठीक है ना, भाभी की तब्येत अँण्ड ऑल. The communication of the complainant and said Gourav Gera appears to be normal communication

(v) Thus from the whatsapp communication between the complainant and said Gourav Gera it appears that even after the alleged incident the relation between the complainant and said Gourav

Gera were normal. Further, the F.I.R. clearly shows that the when said Gourav Gera threatened the complainant to send them to jail then only this complaint is filed. There was ample opportunity to the complainant to lodge complaint before 20/11/2024. Thus it is observed that the said complaint alleging rape has some connection with the complaint of theft lodged by the complainant.

13. Thus, the facts and circumstances on record as highlighted by learned Session Court as set out hereinabove, *prima facie*, shows that false F.I.R. of rape has been filed by the present Applicant against the First Informant just to ensure that the First Informant does not file any police complaint with respect to the said offence of theft of golden ornaments.

14. It is required to be noted that both the Applicant and the First Informant are neighbours and having family relationship. The Applicant is a lady. On 25th November 2024, in the presence of society members and in the presence of the Applicant's father and in view of the CCTV footage of the incident of theft which has taken place on 17th November 2024, the father of the Applicant as also the Applicant and her husband has stated that the Police complaint be not filed as the reputation of the family would be

tarnished and that they would compensate the First Informant and therefore the Police complaint has not been filed initially. However, thereafter in order to bring pressure on the First Informant, *prima facie*, false F.I.R. of rape has been filed on 07th January 2025/14th January 2025 at Police Station at Kota, Rajasthan and the husband of the Applicant i.e. Accused No.2, filed false complaint of extortion with Wagholi Police Station, Pune City on 13th December 2024.

15. Thus prima facie, the Applicant and her husband who is co-Accused, are creating evidence and filing false complaints of rape and extortion just to ensure that the First Informant should not file F.I.R.

16. At this stage, it is required to be noted that the learned Additional Sessions Judge who has refused anticipatory bail of the present Applicant has perused video footage in the pen-drive submitted to the Court. The relevant observations of the learned Additional Sessions Judge in the order dated 24th March 2025 passed in Criminal Bail Application No.1307 of 2024 are to be found in Paragraph Nos. 9 and 10, which reads as under :-

“9] The perusal of video footage in the pendrive submitted along with the case-diary prima facie shows that the applicant accused along with her husband had entered into the house of informant including his bedroom. It also appears that on 25.11.2024 a meeting was held with applicant's father and society member in which the applicant's father had admitted about her wrong doing and requested the informant refraining from filing a police complaint, fearing defamation. Her father said that they will compensate Rs.45.00 lakhs only for the stolen jewelry. The CCTV footage, call recordings and other evidence support the claim of the informant.

10] From the allegations and contentions in FIR, documents filed along with the application and the whatsapp chats filed by the complainant on record prima facie shows the involvement of the applicant and her husband in the alleged offence. Detail investigation in that regard needs to be carried out. At this stage the lodging of FIR at Borkheda Police Station Kota, Rajasthan instead of lodging the complaint at Wagholi Police Station, creates reasonable doubt. So also as per the contentions of the learned APP, there is risk of disposing of the gold ornaments and obstruction in the process of investigation if the applicant-accused is released on bail. Therefore, considering the facts and circumstances of the present case and mysterious situations, **custodial interrogation of applicant accused appears to be justifiable.** The authorities cited by applicant are on the point of unexplained delay. However, in the present case

in hand, the informant has explained that after the incident of theft, meetings were held and accused admitted their mistake and the applicant's father agreed to pay compensation amount. Thus, this process took time and a result of that there was delay in lodging FIR. Hence, with due respect the authorities cited by the applicant-accused does not have any bearing in the present case in hand and are not helpful to the applicant- accused. Considering the above discussed factors, the applicant accused failed to make her prima facie case to grant pre-arrest protection. Hence, I pass the following order:-”

(Emphasis added)

It is very significant to note that the learned Additional Sessions Judge has after perusal of the CCTV footage has observed that there is prima facie material against the Applicant. The learned Additional Sessions Judge has also observed about the conduct of the Applicant of lodging F.I.R. at Borkheda, Police Station, Kota, Rajasthan instead of lodging complaint at Wagholi Police Station, Pune and observed that same creates reasonable doubt. As noted hereinabove, the offence is very serious. Apart from that the Applicant and her husband just to ensure that the First Informant is prevented from filing the F.I.R. has *prima facie* filed false complaint making allegations of extortion and rape.

17. There is no substance at this stage in the contention raised by learned Counsel appearing for the Applicant concerning certificate under Section 65 B of the Evidence Act as such certificate has been produced as observed by the learned Additional Sessions Judge in the order granting bail to the First Informant.

18. Although, it is one of the contention of the learned Counsel appearing for the Applicant that there is delay in filing the F.I.R. and also messages are sent for settling the matter, however, it is required to be noted that the Applicant and the First Informant are the neighbours and staying in the same society and after the commission of crime the Applicant, her husband and also Applicant's father assured to compensate the First Informant regarding theft of said gold, there is delay in lodging the subject F.I.R. and also messages sent regarding settlement.

19. The Supreme Court in the case of *Nikita Jagganath Shetty alias Nikita Vishwajeet Jadhav v. State of Maharashtra*², has held that the Anticipatory Bail is an exceptional remedy and ought not

² 2025 SCC OnLine SC 1489

to be granted in a routine manner. There must exist strong reasons for extending indulgence of this extraordinary remedy to a person accused of grave offences. It has been further held that while called upon to exercise the said power, the Court concerned has to be very cautious as the grant of interim protection or protection to the accused in serious cases may lead to miscarriage of justice and may hamper the investigation to a great extent as it may sometimes lead to tampering or distraction of the evidence. The said observations of the Supreme Court are squarely applicable to the present case.

20. The Supreme Court in the case of **State Rep. by the C.B.I. Vs. Anil Sharma**³ has held in paragraph No. 6 as follows :

“6. 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 favourable order under Section 438 of the Code. In a case like this effective interrogation of a 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 order during the time he is interrogated. Very often interrogation in such a condition would reduce to a mere ritual. The argument that the

3 (1997) 7 SCC 187

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 offences would not conduct themselves as offenders.”

(Emphasis added)

Thus, what has been held by the Supreme Court is that the custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a favourable order under Section 438 of the Code. It has been held that for effective interrogation of a suspected person in a serious case, custodial interrogation is necessary.

21. Learned Counsel for the Applicant submits that in this Anticipatory Bail Application interim protection has been granted by a learned Single Judge by order dated 13th May 2025 and thereafter the Applicant has completely co-operated with the investigation. However, as noted hereinabove in the case of **State Rep. by the C.B.I. Vs. Anil Sharma**⁴, the Supreme Court has held that custodial interrogation is qualitatively more elicitation-oriented than questioning a suspect who is well ensconced with a

⁴ (1997) 7 SCC 187

favourable order under Section 438 of the Code. In a case like this to carry out effective interrogation, it is absolutely essential that the custodial interrogation is necessary.

22. This is a case where there is *prima facie* material against the Applicant. Apart from that just to ensure that the First Informant is prevented from filing F.I.R., inter alia, *prima facie* false F.I.R. alleging rape and extortion is filed against the First Informant by the Applicant and her husband respectively. Thus, this is a case where the Applicant has *prima facie* gone to the extent of creating false evidence and lodging false F.I.R. alleging grave offence of rape. In the facts and circumstances the Applicant is not entitled for the relief of anticipatory bail which is an exception remedy and ought not to be granted in a routine manner. There are no reasons available for extending the said extraordinary remedy. In the facts and circumstances grant of anticipatory bail to Applicant will lead to miscarriage of justice and may hamper the investigation to a great extent and also lead to tampering or distraction of the evidence. Accordingly as the custodial interrogation is necessary. The Anticipatory Bail Application is dismissed.

23. At this stage, a request is made for continuing ad-interim relief for some time, however it has already been observed that the

case is very serious. Apart from that *prima facie* false F.I.R. of rape has been filed by the Applicant against the First Informant. Thus it is clear that there is possibility of tampering of the evidence and creation of false evidence. Accordingly, said request is rejected.

(MADHAV J. JAMDAR, J.)