

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

Anticipatory Bail Application No.1469 of 2025

Ubaidullah Mushtaque Shaikh
Aged about 42 years, Occ: Business,
Residing at Room No. 104, 1st Floor,
Zoeb Apartment, Thakurpada,
Near Roshni Mahal, Mumbra,
Thane - 400612

... Applicant

versus

1. The State of Maharashtra
2. ABC (First Informant)
(At the instance of Police Inspector,
Mumbra Police Station, Thane)
(Vide their CR. No.I-231 of 2025)

... Respondents

Mr Abdul Wahab Shaikh, a/w. Mr Aditya Parmar, for the applicant.

Mr Arfan Sait, APP, for the respondent/ State.

API Parshuram Londhe, Mumbra Police Station, is present.

Coram: R.N. Laddha, J.

Date: 17 July 2025.

P.C.:

. By this application, the applicant seeks pre-arrest bail in connection with CR No.231 of 2025, registered at Mumbra Police Station, Thane, for offences punishable under Sections

376 and 506 of the Indian Penal Code.

2. It is the case of the prosecution that the complainant entered into matrimony in the year 2013 and has, since then, been residing with her husband in Mumbra. It is alleged that her husband possesses volatile temperament, often becoming aggressive over trivial matters. As a result, he would subject the complainant and their children to frequent verbal and physical abuse. The complainant's family member, including her brother-in-law/ the present applicant were aware of the ongoing domestic discord.

3. It is further alleged that the applicant used to visit the complainant's resident regularly. Initially, he conducted himself as a concerned family member; however, over time, his behaviour became inappropriate and predatory, particularly during instances when the complainant was alone at home. In one such incident, occurred in May 2022, the applicant visited the complainant's residence under the pretext of asking for money. After engaging in a casual conversation, he followed the complainant into the kitchen, where he forcefully hugged her, covered her mouth to stifle any resistance, and sexually assaulted her. The applicant then left the premises immediately.

4. The following day, the applicant contacted the

complainant via the Telegram messaging application. During the conversation, he not only expressed that he had developed feelings for her but also threatened her with a video recording of the said incident. Fearing family breakdown, the complainant chose not to disclose the matter to anyone at that time. However, the applicant continued to use the video to coerce and blackmail the complainant into maintaining a physical relationship against her will. In October 2024, the complainant finally told her husband, which led to conflicts between them.

5. The learned Counsel appearing on behalf of the applicant asserts the applicant's innocence and contends that the applicant has been falsely implicated in the present case. The learned Counsel submits that the FIR has been lodged after an inordinate and unexplained delay of nearly three years from the date of alleged incident. This significant lapse of time, according to the learned Counsel, casts serious doubt on the genuineness and credibility of the allegations levelled against the applicant.

6. The learned Counsel further draws the attention of this Court to the complaint dated 29 November 2024, filed by the husband of the complainant. In the said complaint, the

complainant's husband made allegations regarding her involvement in extra-marital relationships with two individuals. He furnished documentary evidence including text messages, call records, and photographs, which according to him, substantiate the existence of inappropriate and intimate relations between the complainant and the said individuals. It is further alleged in the said complaint that the complainant herein frequently met these individuals both at her residence and in various hotels engaging in conduct that is inconsistent with the sanctity of the matrimonial life. The complainant's husband also stated that she has grossly neglected her duties and responsibilities as a wife and mother, thereby adversely affecting the emotional and mental well being of their children. Moreover, the complainant is accused of regularly using abusive language towards her husband and his elderly parents, and of issuing repeated threats to implicate them in false criminal cases. According to the complainant's husband, her aggressive and erratic behaviour, coupled with her extra-marital involvements, has caused irreversible damage to his dignity and severely disrupted the peace and harmony of the household. Whenever confronted with these issues, the complainant reacted with hostility and intimidation, threatening her husband with dire consequences. According to the learned Counsel, the present FIR has been filed with the ulterior motive

of diverting attention from the complainant's own wrongful conduct and to create pressure within the context of an ongoing and acrimonious matrimonial discord.

7. The learned Counsel further submits that the alleged incident, as per the FIR, is stated to have occurred on 1 May 2022 at room No.404 of the premises mentioned therein. However, the said building was still under construction during that period, and possession of the property was granted only in October 2022. This factual inconsistency, according to the learned Counsel, further undermines the complainant's version and suggests fabrication.

8. Additionally, the learned Counsel points out that the complainant herself lodged a complaint on 26 November 2024 at Cheeta Camp Police Station against her husband, mother-in-law, and the present applicant. In that complaint, she categorically stated that her husband was coercing her to file a false case against the applicant, failing which he would not permit her to continue residing with him. The statements made by the complainant in her prior complaint are directly at odds with the allegations now made in the present FIR highlighting the inconsistent nature of her accusations. In view of the above, it is submitted that the present FIR is not only delayed

and contradictory in nature but also appears to be a manifestation of personal vendetta arising out of internal familiar disputes.

9. The learned Additional Public Prosecutor representing the respondent/ State, opposes applicant's plea and submits that the offence is of a grave and serious nature. The learned APP, however, fairly concedes that, with the exception of the recovery of the applicant's mobile phone and the conduct of his medical examination, the investigation is otherwise substantially complete. The learned APP further submits, in all fairness, that respondent No.2 has declined to undergo her own medical examination, despite the investigating agency's request in that regard.

10. Upon perusing the records, it appears that there has been an inordinate and unexplained delay of approximately three years in the lodging of the FIR. The alleged incident is stated to have occurred in May 2022, yet the complainant did not disclose the occurrence of the incident to her husband until October 2024. Notably, despite this disclosure, the FIR was not lodged until 6 February 2025. This considerable lapse of time, has not been addressed or explained by the complainant either in the contents of the FIR or in her subsequent statements.

11. It appears from the record that on 29 November 2024, the complainant's husband had filed a complaint against her, wherein he alleged that his wife had been engaged in extra-marital relationships with two individuals, one of whom is the present applicant. The applicant claimed to possess supporting evidence, including explicit text messages, call logs, and photographs, which allegedly demonstrate the inappropriate associations. He further stated that the complainant had met these individuals at home and hotels. Moreover, the husband alleged that the complainant had been neglectful of her duties as a spouse and mother, thereby adversely affecting the emotional and psychological well-being of their children. He also contended that his wife/the complainant herein had verbally abused him and his parents, and had repeatedly issued threats to implicate them in false criminal cases. According to the complainant's husband, the complainant's aggressive conduct had created a hostile and toxic environment within the household. He had, therefore, in his complaint, requested that the matter be referred to the Mahila Mandal for appropriate mediation and resolution and sought protection for himself and his his parents from the complainant.

12. It further appears from the records that complainant/respondent No.2 has refused to undergo medical examination.

At present, apart from the recovery of the applicant's mobile phone and his medical examination, the investigation is almost complete. The applicant has expressed his readiness and willingness to surrender his mobile phone and to undergo requisite medical examination.

13. Considering the totality of the circumstances and the stage of the investigation, this Court finds it appropriate to allow the present application. Accordingly, the following order is passed :

ORDER

(i) In the event of the applicant's arrest in connection with CR No.231 of 2025, registered at Mumbra Police Station, Thane, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall attend the concerned police on 22, 23 and 24 July 2025 and thereafter as and when required by the investigating officer, surrender his mobile phone and undergo the medical examination.

(iii) The applicant, himself or through any other person, shall not tamper with the evidence or influence witnesses.

14. The application stands disposed of accordingly.

(R.N. Laddha, J.)