

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

**INTERIM APPLICATION NO.2369 OF 2025
IN
ANTICIPATORY BAIL APPLICATION NO.249 OF 2023**

Rishi Devendranath Kapoor Applicant

versus

The State of Maharashtra & Anr. Respondents

.....

- Dr. Uday Warunjikar a/w Ms. Reshma Kurle a/w Mr. Rishikesh Nabar i/b. Mumbai Legal, Advocate for Applicant.
- Mr. Rizwan G. Merchant a/w Ms. Ruchika A. Ghag a/w Rashi Maknikar, Advocate for original Complainant/Respondent No.2.
- Ms. Ranjana D. Humane, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th AUGUST, 2025

P.C. :

1. Heard Dr. Uday Warunjikar, learned Counsel for the Applicant, Mr. Rizwan G. Merchant, learned counsel for the Respondent No.2 and Ms. Ranjana D. Humane, learned APP for the State.

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2. This Interim Application is for a limited issue for

modification of the statement made on behalf of the Applicant, which is recorded in the order dated 31/01/2024 in Anticipatory Bail Application No.249 of 2023. For understanding the prayer made in this application, it is necessary to reproduce the said order dated 31/01/2024, which is annexed at Ex.B to this application. The order in its entirety reads thus:

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

CR. ANTICIPATORY BAIL APPLICATION NO. 249 OF 2023

Rishi Devendranath Kapoor	...Applicant
Versus	
State Of Maharashtra & Anr.	...Respondents

Adv. Prabha Badadare for the Applicant.
Ms. Mahalakshmi Ganapathy, APP for the Respondent-State
Ms Devyani Kulkarni appointed Advocate for the Respondent No. 2

CORAM : SARANG V. KOTWAL, J

DATED : 31st JANUARY, 2024

P.C.:

1. The Applicant is seeking anticipatory bail in connection with C. R. No. 554 of 2020 registered at Oshiwara Police Station u/s. 498(A), 406, 420, 323, 504, 506 r/w. 34 of the Indian Penal Code. Subsequently, sections 465, 468, 471 and 313 of the IPC came to be added.

2. Heard Ms. Badadare, learned Counsel for the Applicant, Ms. Kulkarni, learned Counsel for the Respondent No. 2 and Ms. Ganapathy, learned APP for the Respondent-State.

3. The FIR is lodged by the wife of the Applicant. The gist of the FIR is that the informant was earning salary from her job with an airline company. She got married with the Applicant on 18/07/2010. There are allegations that the Applicant and his father used the informant's money to purchase six flats. The informant was not given any benefits in respect of those flats. She has not been given any rent earned from that property. There are allegations that the Applicant was having extra marital affairs and there are allegations that the Applicant's family misappropriated the ornaments of the informant worth Rs.23,10,000/-. On all these allegations the FIR is lodged.

4. Today the Court time is over and therefore I am adjourning the matter. However, I have considered the question for grant of ad-interim protection.

5. Learned Counsel for the Applicant on instructions makes a statement before the Court that out of the six flats, which are mentioned in the FIR, the Applicant is willing to transfer four flats in the name of the first informant. The statement is recorded.

6. Learned Counsel for the first informant as well as learned APP

opposed grant of ad-interim relief.

7. Learned APP submitted that the Applicant is issuing threats to the first informant and is causing harassment. For that even NCs are registered. Learned Counsel for the informant submitted that the informant is not willing to explore the possibility through mediation. She wants to contest this Application.

8. I have considered these submissions.

9. The FIR refers to six flats, out of which three flats are in the name of joint owners, out of which the informant is also a co-owner. Two flats are exclusively in the name of the Applicant and one flat is in the name of the Applicant and his father. Learned Counsel for the Applicant has made a solemn statement that out of these six flats, four flats would be transferred in the first informant's exclusive name. Considering this statement, today the Applicant can be protected by ad-interim relief. At the same time, the first informant also needs protection from the alleged harassment caused by the Applicant. It is also to be noted that the Applicant was on interim protection during the pendency of the anticipatory bail application before the Sessions Court, as stated by learned Counsel for the Applicant.

10. Hence, the following order:

ORDER

- (i) In the event of his arrest in connection with C. R. No. 554 of 2020 registered at Oshiwara Police Station, till the next date, the Applicant be released on bail on his executing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) This order shall operate till **14/03/2024**.
- (iii) The Applicant shall attend the Oshiwara Police Station on 14th, 15th and 16th February, 2024 and thereafter on every Saturday between 10.00AM to 11.00AM till the next date.
- (iv) The Applicant shall cooperate with the investigation.
- (v) The Applicant shall not cause any harassment to the first informant. The Applicant shall not try to contact the first informant directly or indirectly.
- (vi) The Applicant shall not tamper with the evidence including the witnesses.
- (vii) Stand over to 14/03/2024.

(SARANG V. KOTWAL, J.)

3. When the matter was argued, the order was not reserved. It was passed on 31/01/2024. It was immediately uploaded within a short period i.e. on 02/02/2024, as can be seen from the copy annexed at page No.10. Now this application is filed after quite some time on 30/06/2025. The circulation was taken on 13/08/2025 and was immediately granted for today's date. Hence the matter is listed on today's board.

4. The prayers in this application in paragraph Nos.8 and 9 read thus:

'8. In the view of the above submissions it is submitted that the modification in the Order dated 31/01/2024 is required to be done as follows :

“Para 5. Learned Counsel for the Applicant on instructions makes a statement before the Court that out of the six flats, which are mentioned in the FIR, the Applicant is willing to transfer four flats in the name of the first informant, as full and final settlement.

.....

Para 9. The FIR refers to six flats, out of which three flats are in the name of joint owners, out of which the informant is also a co-owner. Two flats are exclusively in the name of the Applicant and one flat is in the name of the Applicant and his father. Learned Counsel for the Applicant has made a solemn statement that out of these six flats, four flats would be transferred in the first informant's exclusive name, as full and final settlement and she will not claim anything from the Applicant in the future from the remaining two flats.”

9. In the peculiar facts and circumstances set out hereinabove, the Petitioner, therefore, respectfully prays that :

- a. This Hon'ble Court be pleased to modify the order dated 31/01/2024, as mentioned in Para No.6 above;
- b. Such other and further reliefs as this Hon'ble Court may deem fit and proper.'

5. The perusal of the order dated 31/01/2024 shows that on that day i.e. on 31/01/2024 this Court had considered the question for grant of ad-interim protection. The two paragraphs recording that statement are paragraph Nos.5 and 9 of the said

order. In paragraph No.5 the statement made by the learned counsel for the Applicant was recorded.

6. It was specifically mentioned in paragraph No.5 thus:
- “Learned counsel for the Applicant on instructions makes a statement before the Court that out of the six flats, which are mentioned in the FIR, the Applicant is willing to transfer four flats in the name of the first informant. The statement is recorded.” These are the exact words in the paragraph No.5.

7. In paragraph No.9 it was again mentioned thus:
- “Learned Counsel for the Applicant has made a solemn statement that out of these six flats, four flats would be transferred in the first informant’s exclusive name.” This statement was made by a responsible counsel before this Court. It was accepted in good faith by this Court.

8. It is quite clear that interim and ad-interim orders are always subject to final orders and final orders can be passed after hearing further arguments on behalf of both the contesting

parties. The order dated 31/01/2024 was passed only for consideration of grant or rejection of ad-interim relief. Vide that order ad-interim order was granted. Now after a gap of about one year and seven months, the matter is again placed before me for adding a few words in the statement made by the learned counsel for the Applicant and in particular to add that the statement was made as a full and final settlement. After one year and seven months it is not possible to change the statement recorded in the said order and therefore I am not inclined to allow the application.

9. I have heard the learned counsel appearing for both the parties today. From their submissions before me today, it appears that the settlement is not possible between the parties. The terms of settlement are always the issue which can be exclusively dealt with by the parties. The Court does not have any say in fixing the terms of the settlement. In this situation, Anticipatory Bail Application will have to be decided by the learned Judge having the roster of Anticipatory Bail Applications. No further orders in this particular Application i.e.

Interim Application No.2369 of 2025, are necessary. Hence the application is disposed of.

10. It is made clear that the Anticipatory Bail Application No.249 of 2023 shall be placed before the learned Judge who has roster of these matters. Henceforth, the matters between these two contesting parties shall not be placed before the bench, of which Mr. Sarang V. Kotwal, J., is a member.

11. The application is disposed of.

(SARANG V. KOTWAL, J.)