



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION (ABA) NO. 319 OF 2025

MILIND S/O SHANKAR THAMAKE

Vrs.

THE STATE OF MAHARASHTRA AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Atharva S. Manohar, Advocate for applicant.
Shri C. A. Lokhande, A. P. P. for respondent No.1-State.
Ms. Neha Singhania, Advocate for respondent No.2.

CORAM: URMILA JOSHI-PHALKE, J.

DATE : 20/06/2025.

1. Apprehending the arrest at the hands of police in connection with Crime No.359/2025 registered under Sections 69 and 352 r/w Section 3(5) of the BNS, the applicant approached to this Court for grant of pre-arrest bail.

2. Heard Shri Atharva Manohar, learned counsel for the applicant who submitted that a crime is registered on the basis of report lodged by the victim, who is a married woman and residing with her husband and her two children. As per her allegations, she got acquaintance with the present applicant, as he used to reside with the sister of the applicant for preparation of the competitive examination. It is further alleged that on the pretext of securing job, the applicant has demanded Rs.10,00,000/- from her and also obtained the amount and in presence of her father, when her father was in sleep, the applicant has

subjected her for forceful sexual assault when she had been to the room of the present applicant. He submitted that this allegation itself appears to be improbable. As far as the transaction alleged is concerned which is unethical one and in view of the observations of the Hon'ble Apex Court, caution exercised by the police in cases pertaining to unethical transactions between the private parties which appears to be prima facie contentions in the light of previous enquiries and investigations. He submitted that considering the entire investigation papers and the allegations levelled itself appear to be improbable. The custodial interrogation of the present applicant is not required. In view of that, he be protected by granting ad-interim anticipatory bail.

3. Learned APP and learned counsel for the victim strongly opposed for the same on the ground that the applicant has not only subjected her for the forceful sexual assault but also obtained money from her time to time which is Rs.10,00,000/-. The custodial interrogation is required for the purpose of recovery of the said amount. In view of that, the prayer for grant of anticipatory bail deserves to be rejected.

4. On hearing both the sides and on perusal of the investigation papers, it reveals that the victim got acquaintance with the present applicant. They were visiting to each other's house. As per the allegations, victim had been to the room of the present applicant along with her father and her father was sleeping, at that time,

during the night hours, she was subjected for forceful sexual assault by the present applicant. The contention raised by the learned counsel for the applicant is having some substance, as it appears to be improbable that in the presence of the father in the room, it would be difficult for the present applicant to subject the well grown up woman to sexual assault. As far as the other allegations are concerned, learned counsel for the applicant placed reliance on the decision of Deepak Kumar Shrivastava and another Vrs. State of Chhattisgarh and others, reported in (2024) 3 SCC 601, wherein the Hon'ble Apex Court observed that considering the nature of allegation, there has to be an unlawful contract between the parties. Thus, apparently, a suit for recovery could not have been filed for the said purpose. Moreover, even if it would be difficult to establish that where the payment was entirely in cash and the FIR is lodged. It is further observed by the Hon'ble Apex Court that the need for vigilance on the part of police is paramount and a discerning eye should be cast upon where unscrupulous conduct appears to be eclipse the pursuit of justice.

5. In view of the observations of the Hon'ble Apex Court and considering the entire investigation papers, at this stage, the entire allegations appear to be doubtful. However, investigation is still in progress and the immediate custodial interrogation of the present applicant is not required. The interrogation part can be taken care of by imposing certain conditions on the

present applicant. In view of that, I proceed to pass following order :-

ORDER

- i] Application is allowed.
- ii] In the event of arrest in connection with Crime No.359/2025 registered under Sections 69 and 352 r/w Section 3(5) of the BNS, the applicant be released on ad-interim anticipatory bail on executing PR bond of Rs.50,000/- with one solvent surety in the like amount.
- iii] The applicant shall attend the concerned Police Station twice in a week on Monday and Thursday between 10.00 a.m. to 1.00 p.m. and shall co-operate with the Investigating Agency.
- iv] The applicant shall not enter into the vicinity of village Mukhed, Dist. Nanded, till the culmination of trial.
- v] The applicant shall not induce, threat or promise to any witnesses, who are acquainted with the facts of the present case.

6. The fees of the appointed counsel be quantified, as per rules.

7. The application is disposed of.

[URMILA JOSHI-PHALKE, J.]