



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2360 OF 2025

KAILASH SAKHARAM GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA

Advocate for Applicant : Ms. Charuta S. Deshmukh
APP for Respondents-State : Ms. R. R. Tandale

CORAM : SACHIN S. DESHMUKH, J.

Date : 29th January, 2026

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 24.07.2025 bearing Crime No. 161 of 2025 registered with Usmannagar Police Station, Dist. Nanded for the offences punishable under Sections 64(1), 69, 351(2), 351(3) of the Bharatiya Nyaya Sanhita, 2023 alongwith Section 67 of the Information Technology Act.

2. The prosecution case is that the informant is a widow whose husband passed away in the year 2014, since then she has been residing with her parents. Informant reportedly became acquainted with the applicant through dealings related to Bachat Gat transactions. It is alleged that approximately one year prior to

the filing of the report, the applicant proposed marriage to her, a proposal which she initially refused.

3. The prosecution case further alleges that in April 2024, the applicant entered the informant's residence during the absence of her family members and established physical relations with her under the pretext of a promise to marry. Subsequently, the applicant allegedly maintained these relations by deploying coercive tactics, specifically claiming to possess video recordings of their private moments and threatening to make them viral should, refuse his demands. The matter eventually came to light after the informant disclosed the sequence of events to her mother, brother, and other relatives. Based on these allegations, the present crime has been registered against the applicant.

4. The learned counsel for the applicant submits that the prosecution's narrative contains significant chronological contradictions which strike at the root of the case. Although the alleged incidents are said to have occurred since April 2024, the FIR was lodged after an unexplained delay of approximately three months. Such a significant and unexplained delay in reporting indicates of false implication.

5. It is further submitted that the allegations themselves point toward a long-standing acquaintance rooted in Bachat Gat financial transactions. The claim that physical relations were maintained over a prolonged period, allegedly under the "pretext of marriage" or the "threat of videos", indicates a consensual relationship rather than one based on coercion.

6. It is further submitted that the investigation is complete and the charge-sheet has been filed, the applicant's custodial presence is no longer required for any recovery. Consequently, further incarceration of the applicant would be unjustified and serve no punitive purpose before the trial. Hence, prayed to allow the application.

7. The learned APP has submitted that the applicant has committed a serious offence. The actions described in the complaint involve a significant breach of trust and exploit a vulnerable individual. It is submitted that the applicant's conduct includes criminal intimidation, which continued even after the initial alleged offence. Although the charge-sheet has been filed, there is a substantial risk that the applicant will attempt to influence or

intimidate witnesses, particularly the informant and her family. As such, prayed to reject the application.

8. The Hon'ble Apex Court in the case of **Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670)** has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

9. Similarly, the Hon'ble Apex Court in case of **Pralhad Singh Bhati Vs. NCT, Delhi [(2001)4 SCC 280]**, held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

10. Similarly, the Hon'ble Apex Court in case of **Ram Govind Upadhyay Vs. Sudarshan Singh [(2002)3 SCC 598]**, has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences.

11. Equally, the Hon'ble Apex Court in case of **State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21]**, has

held that the Court must evaluate the prima facie evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused.

12. The Hon'ble Apex Court in case of **Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010)14 SCC 496]**, has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

13. In the present case, prima facie, the applicant is accused of a serious offence under Section 64 of the BNS. The allegations involve exploiting a widow's vulnerable social and emotional position under the fraudulent pretext of marriage. Moreover, there is a specific allegation that the applicant used objectionable video recordings to blackmail the informant into a continuous cycle of sexual exploitation and further circulating there objectionable security. The same prima facie indicates a predatory mindset and a calculated criminal design to silence the victim.

14. So far as delay in lodging the FIR is concerned, such

delay is prima facie explained by the threat of making videos viral. In cases of sexual offences and digital blackmail, the victim often suffers from extreme social stigma and fear. Pertinently, the nature of the evidence, specifically the alleged digital recordings and its circulation is highly sensitive. I am of the considered view that if the applicant is released on bail, there is a strong apprehension that the accused may destroy electronic evidence or use the same material to further intimidate the informant and her family members.

15. The Hon'ble Apex Court in case of **State of Bihar Vs. Amit Kumar [(2017)13 SCC 751]**, has held that delay especially in cases involving serious offences, cannot by itself be a ground for bail. In the present case, considering the seriousness of the offences involved, the overwhelming material weighs against the applicant.

16. Considering the material available, a clear prima facie case is made out indicating the involvement of the accused. Equally, the Hon'ble Apex Court has consistently reiterated that when considering bail application/s in serious offences, the Court must treat vital considerations like the nature of the charge and

the nature of the evidence as paramount.

17. In the light of aforestated facts and circumstances and the applicant's access to the informant's residence in the past, the applicant's release poses a direct threat to the physical and mental safety of the informant. The protection of the victim's interests outweighs the applicant's plea for liberty at this stage.

18. In view of the aforesaid observations and having regard to the gravity of the offence, I do not find merit in the present application and accordingly, the bail application is **rejected**.

19. Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi