

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2487 OF 2025**

Kishor Sidu Varak

...Applicant

Vs.

The State of Maharashtra and Anr.

...Respondents

Mr. Asim Sarode a/w Mr. Saklen Mujawar, for Applicant.

Mr. S. S. Chaudhari, APP, for the Respondent-State.

**CORAM : NITIN B. SURYAWANSHI, J.
DATE : 7th JANUARY 2026.**

P.C.

1. By this application, the Applicant seeks anticipatory bail in Crime No.380 of 2025 registered with Kudal Police Station, District: Sindhudurg, for the offences punishable under Sections 308(2), 308(3), 308(7) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS Act”).

2. The prosecution case in short is that the Applicant/Accused No.1 in connivance with Accused No.2, demanded a sum of Rs.10,00,000/- as extortion from the informant for release of her husband on bail and for not applying the provisions of the Maharashtra Control of Organised Crime Act, 1999 (for short, “MCOC Act”) in the case of her husband. Out of that he has accepted an amount of Rs.1,00,000/- from Hardik Shingale and Yogesh @ Banti Dilip Tulaskar at Kudal M.I.D.C. on 3rd July, 2025. Subsequently, informant’s husband was released on bail and therefore, the remaining amount was not paid to the Applicant.

3. Heard learned Advocate for the Applicant and learned APP for the Respondent – State. Perused the record.

4. Learned Advocate for the Applicant strenuously submitted that the Applicant is an advocate and he is falsely implicated in the present crime. The Applicant had filed various complaints and representations against the police officers at Kudal, in respect of lapses in the investigation in case of disappearance of a minor girl and therefore, he is falsely implicated in the present crime. The Applicant never demanded any money from the informant or from anyone else and has not accepted an amount of Rs.1,00,000/- as alleged by the prosecution. He further submitted that the Call Details Record (CDR) collected by the Investigating Agency cannot be considered as genuine in absence of certificate under Section 65-B of the Indian Evidence Act, 1872 and in absence of IMEI numbers of the mobile phones. On the same ground, the Whatsapp chats produced also cannot be considered as genuine for lack of certification under Section 65-B of the Indian Evidence Act, 1872.

5. According to him, though the prosecution relies on mobile tower location, the same cannot be considered as conclusive in absence of authentic credible material information from reliable and legitimate resources. He further submits that there is delay of one month and eleven days in lodging the F.I.R. Since, the statements of all material witnesses are recorded by the Investigating Officer and as the transcripts

of telephonic conversation and digital evidence is collected by the Investigating Agency, custodial detention of the Applicant is not necessary. He is ready and willing to co-operate in the investigation and give his voice sample. Though there are criminal antecedents, that cannot be a ground to reject anticipatory bail application of the Applicant.

6. Per contra, learned APP vehemently opposed the application by producing the investigation papers and the report of the Investigating Officer. He submits that there is sufficient evidence on record showing the involvement of the Applicant in the present crime and therefore, the application is liable to be rejected.

7. The Investigation papers show that the Applicant in connivance with Accused No.2 has demanded an amount of Rs.10,00,000/- for not applying the provisions of the MCOC Act in the crime registered against informant's husband for commission of murder and for his early bail. The cellphone of Accused No.2 is recovered and from the data retrieved from it the involvement of the Applicant in the present crime is evident.

8. Hardik Shingale and Yogesh Tulaskar have stated that the Applicant has accepted an amount of Rs.1,00,000/- from them on 3rd July, 2025, at Kudal M.I.D.C.. Pertinently tower location of the Applicant/Accused No.1, Accused No.2 and witnesses Hardik Shingale

and Yogesh Tulaskar is at Kudal M.I.D.C. during the period between 17:45 to 19:00 on 3rd July, 2025.

9. The CDR of Accused No.2 shows that after he talked with informant and witnesses, immediately he has contacted to the Applicant and talked with him. The conversation between Accused Nos.1 and 2 shows that the Applicant, Accused No.2 was asking about the money to be received from Siddhesh Gawade. *Prima facie* it appears that the Applicant is a master mind of the crime. There is sufficient material showing the involvement of the Applicant in the present crime. The cellphone of the Applicant and amount involved in the crime is required to be recovered. The voice sample of the Applicant needs to be obtained. The Applicant's custody is required for effective investigation in the present crime.

10. There are following offences registered against the Applicant :-

I. C.R. No.326 of 2021 registered with Sawantwadi Police Station for the offences punishable under Sections 420 read with 34 of the Indian Penal Code, 1860 (for short, "IPC").

II. C.R. No.22 of 2022 registered with Nivatti Police Station, for the offences punishable under Sections 376, 354(A), 504 and 506 of IPC and 67(A) of Information Technology Act, 2000.

III. C.R. No.45 of 2025 registered with Nivatti Police Station, for the offences punishable under Sections 109, 119(1), 137(2), 126(2), 352,

351(3) and 3(5) of the Bharatiya Nyaya Sanhita, 2023 (for short, “BNS Act”).

11. There is no merit in the contention of the Applicant that the CDR and Whatsapp chats are not admissible in absence of certificate under Section 65-B of the Indian Evidence Act. It is well settled that the certificate can be produced at subsequent stage. At the stage of investigation, merely because there is no certificate, the said material collected by the Investigating Agency cannot be disregarded.

12. So far as, the argument on the point of delay is concerned, the informant has given explanation in the F.I.R. itself that after release of her husband on bail, he was externed, and therefore, he shifted to Goa. In the meanwhile, she was not keeping well and therefore, she could not lodge the F.I.R. at earlier point of time. After, her health improved, she has lodged F.I.R.

13. In the above backdrop this is not a fit case to exercise discretion in favour of the Applicant. The application being devoid of merit is dismissed.

(NITIN B. SURYAWANSHI, J.)