

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3544 OF 2025

ARJUN
VITTHAL
KUDHEKAR

Mujeeb Ashpak Shaikh

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Digitally signed by
ARJUN VITTHAL
KUDHEKAR
Date: 2026.01.31
17:39:28 +0530

Mr. Vikas Shivarkar, for the Applicant.
Ms. G. P. Mulekar, APP, for the Respondent-State.
Mr. Steve Fernandes, appointed for Respondent No.2.

CORAM: MADHAV J. JAMDAR, J.
DATED: 27 JANUARY 2026

PC:-

1. Heard Mr. Shivarkar, learned Counsel appearing for the Applicant, Ms. Mulekar, learned APP for the Respondent-State of Maharashtra and Mr. Fernandes, learned Counsel appointed to represent the interest of the Respondent No.2.

2. By the present Anticipatory Bail Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023*, the Applicant is seeking pre-arrest bail in connection with CR No.844 of 2025 registered with the Kondhawa Police Station, Pune City, for the offences punishable under Sections 69, 77, 88, 115(2), 351(2) and 352 of the *Bharatiya Nyaya Sanhita, 2023*.

3. As per the prosecution case, the Applicant and the First Informant were in a romantic relationship. In the year 2021, the Applicant called the First Informant to his residence for completion of college assignments and at that time he told the First Informant that he wanted to marry her and thereafter, on the basis of said promise, kept physical relationship with the First Informant. As per the prosecution case, the said relationship continued till 24th October 2025. As per the prosecution case, in the year 2023, the Applicant took photographs of the First Informant and, on the basis of the same, blackmailed her by threatening that the said photographs and videos would be made viral.

4. It is the submission of Mr. Shivarkar, learned Counsel for the Applicant that in fact the Applicant wanted to marry the First Informant, however, the Applicant came to know about certain facts about her earlier life and, therefore, started avoiding the Complainant and, as a result, a false FIR has been lodged.

5. On the other hand, Ms. Mulekar, learned APP submitted that the Applicant has obscene photographs and videos of the First Informant and that by threatening that the said obscene

photographs and videos would be made viral, the Applicant sexually assaulted the First Informant. She, therefore, submitted that the offence is very serious and that the custodial interrogation is necessary.

6. Mr. Fernandes, learned Counsel appointed to represent the interest of Respondent No.2, pointed out that there is an antecedent, being CR/FIR No.65 of 2023 registered with Beed Cyber Police Station, Beed, for the offences punishable under Sections 34 and 420 of the *Indian Penal Code, 1860* and Sections 66 and 66(C) of the *Information Technology Act, 2000*. He pointed out 'Snapchat' chats between the Applicant and the Victim, wherein the Applicant *inter alia* accepted that the Applicant was physically torturing the Victim. He submitted that, by giving promise that the Applicant would marry the First Informant, the Applicant has kept sexual relations with the First Informant and, thereafter, the Applicant sexually assaulted the First Informant by threatening that her photographs and videos would made viral. He submitted that after lodging of the FIR, the Respondent No.2-First Informant has been pressurized by the Applicant's relatives including mother and fiancée to withdraw the Complaint. He

pointed out the Judgment of the Supreme Court in the case of *Prasanta Kumar Sarkar v. Ashis Chatterjee*¹, and more particularly Paragraph 11. He submitted that, if the case is examined on the touchstone of the parameters to be taken into consideration while granting bail, then no case is made out for grant of anticipatory bail. He pointed out the decision of the Supreme Court in *Sumitha Pradeep v. Arun Kumar C.K.*² and submitted that, even if a Charge-sheet is filed, then also it can only be one of the factors to be taken into consideration for granting anticipatory bail. He submitted that, as very serious case under the *Protection Of Children From Sexual Offences Act, 2012* is involved, the Anticipatory Bail Application be rejected.

7. Perusal of the record shows that the Applicant as well as Respondent No.2 are very young, and in fact, when the relationship started, the Applicant was taking education in college. The FIR shows that the relationship is of a consensual nature. The FIR also records that as the Applicant came to know that there was an engagement ceremony between the Applicant and another girl, the FIR was lodged. The Applicant came to know about the said

1 (2010) 14 SCC 496

2 (2022) 17 SCC 391

engagement, which took place on 27th October 2025, and thereafter immediately on 29th October 2025 the FIR was lodged.

8. As already noted, it is the submission of Mr. Shivarkar, learned Counsel, that as the Applicant came to know about certain events regarding the First Informant, the Applicant started avoiding the First Informant and, therefore, the FIR has been lodged. No particulars of the same are provided and only vague contention is raised. In any case, Mr. Shivarkar, learned Counsel, states that the Applicant will completely cooperate with the investigation and will handover his cell phone to the Investigating Officer.

9. The Supreme Court in *Prasanta Kumar Sarkar* (supra) has set out various factors which are required to be taken into consideration at the time of granting bail. The relevant Paragraph is Paragraph No.9, which reads as under :-

“9. We are of the opinion that the impugned order is clearly unsustainable. It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in

compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:

(i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;

(ii) nature and gravity of the accusation;

(iii) severity of the punishment in the event of conviction;

(iv) danger of the accused absconding or fleeing, if released on bail;

(v) character, behaviour, means, position and standing of the accused;

(vi) likelihood of the offence being repeated;

(vii) reasonable apprehension of the witnesses being influenced; and

(viii) danger, of course, of justice being thwarted by grant of bail.”

10. It is well established that, while granting bail, the Court has to exercise the discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a number of decisions.

11. Mr. Fernandes, learned Counsel appointed to represent the interest of the Respondent No.2 pointed out online communication

between the Applicant and the First Informant to contend that the Applicant himself has accepted that the Applicant was physically torturing the First Informant. The relevant part of said online chat is as under :-

Me teko physically torcher karta I accept
 But tu to physically emotinally mentally har jagah se
 torcher
 Dikhava mat kr sufiya
 Thik h ramzaan ka mahina h guna se bacho

tumhara yen orkup wale topic mat
 MUJEEB
 Mujhe sirf mera dikhta baat khatam
 ME
 Sab bat me use kara jndo Zara
 Happy rehge hum dono
 MUJEEB
Teko hamesha maar nhi skta me
 Thik h
 Teri attitude jo tune ghar aane ke baad bhi dikhayi na

12. The above chat shows that there is a serious dispute between the Applicant and the First Informant and, therefore, despite

keeping consensual relationship there was break up between them due to differences.

13. As already noted, the relationship was of a consensual nature. Despite the allegation that, in the year 2023, the Applicant took obscene videos of the victim and by threatening her, maintained sexual relationship with her, the FIR was not lodged earlier and the same was lodged on 29th October 2025 immediately after the Applicant's engagement ceremony with some other girl was performed on 27th October 2025.

14. There is nothing on record to indicate that, after the lodging of the FIR and after this Court granted ad-interim protection by Order dated 23rd December 2025, the Applicant has misused the same. As far as antecedent is concerned, the same is concerning investment in shares and the Applicant has been granted regular bail in that case. The said antecedent is of the year 2023.

15. There is substance in the contention of Mr. Fernandes, learned Counsel appointed to represent the interest of the Respondent No.2 that the Applicant's mother and fiancée

contacted her and threatened her to withdraw the Complaint. However, there is nothing on record to indicate that, after lodging the FIR, the First Informant has threatened the victim. Appropriate stringent conditions can be imposed.

16. As far as the Judgment of the Supreme Court in the case of *Sumitha Pradeep* (supra) is concerned, in that case, the uncle of the victim had sexually assaulted his 13 years-old niece, and in that context, various observations have been made by the Supreme Court.

17. It is true that the only consideration while granting bail is not that custodial interrogation is not necessary, and several factors, as set out herein above in the case of *Prasanta Kumar* (supra), are required to be taken into consideration.

18. However, this is a case where the Applicant is also a very young person. The relationship was of consensual. The relationship started when both were taking education. It appears that certain differences and disputes developed between them afterwards. The FIR was lodged after the First Informant came to know that the

engagement ceremony took place between the Applicant with some other girl.

19. Thus, in the facts and circumstances, case is made out for grant of anticipatory bail. However, stringent conditions are required to be imposed.

20. In view thereof, the following Order is passed:

ORDER

- (a)** In the event of arrest of the Applicant - Mujeeb Ashpak Shaikh, in connection with CR No.844 of 2025 registered with the Kondhawa Police Station, Pune City, he be released on bail on his furnishing PR Bond in the sum of Rs.1,00,000/- with one or two solvent sureties in the like amount.
- (b)** The Applicant shall attend the concerned Police Station, once in a week i.e. on every Sunday between 11:00 am to 02:00 pm, till conclusion of the trial.
- (c)** The Applicant shall furnish his cell phone number and residential address to the Investigating Officer and

shall keep the same updated, in case of any change thereto.

- (d) The Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.
- (f) The Applicant shall not leave India without prior permission of the Court.
- (g) The Applicant shall deposit his passport in the Trial Court.

21. The Anticipatory Bail Application is disposed of accordingly.

22. This Court places on record its appreciation for the assistance rendered by Mr. Steve Fernandes, learned Counsel appointed to represent the interest of Respondent No.2. The High

Court Legal Services Committee, Mumbai is requested to pay his professional charges as per the rules.

23. Needless to observe that the observations made in this Order are of *prima facie* nature and made for deciding the Anticipatory Bail Application.

[MADHAV J. JAMDAR, J.]