


IN THE COURT OF ADDITIONAL SESSIONS JUDGE,
BULDHANA

(Presided over by **Shaikh Akbar Shaikh Jafar**)

| | |
|---|--|
| MHBU010003862026  | <u>Criminal Bail Application No.</u> <u>58/2026</u> |
| | Shadab Khan Sakhawat Khan ..Versus.. State of Maharashtra |

ORDER BELOW EXH.1

(Passed on this 20th day of March 2026)

1] This bail application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita for release of applicant/accused on anticipatory bail.

2] As per the F.I.R., prior to 5 years i.e. in the year 2021, when informant alone was going in the field of Rekhabei Suresh More for doing agricultural work, at about 10.00 a.m., accused came on motorcycle and caught hold her hand and dragged her in the field of Nijamkhan and committed forcible sexual intercourse with her and made video shoot of such relations and threatened her not to disclose such incident to anyone, else he will make viral said shooting and photographs. In the month of December 2024 also, accused threatened her to show her photographs to her mother and made her sit forcibly in Bolero Pick Up vehicle and committed forcible sexual intercourse with her in the field on Mehkar road. So also, on 9.2.2026, when informant was going in the field, accused restrained her at about 11.00 a.m. near the field of Vyankat Gawai

and dragged her in the field of Maize and committed forcible sexual intercourse with her and threatened to kill her husband and son and if she discloses said incident to her anybody. Thereafter, informant went to the police station and lodged report against applicant. On the basis of complaint lodged by informant, Crime No.54/2026 for the offences punishable under Sections 64, 126(2), 351(2) of the Bharatiya Nyaya Sanhita and Sections 3(1)(r)(s), 3(1)(w)(i)(ii), 3(2)(v)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 [for short 'the Act'] came to be registered against applicant.

3] It is the contention of applicant/accused that he is no way concerned with the alleged offence. He is falsely implicated in the present crime. Informant has lodged false report against him. He is innocent. He has not committed any offence. However, due to registration of offence, he is having apprehension of his arrest. Considering the allegations, custodial interrogation of applicant is not necessary. He is ready to abide by the conditions if released on bail. Hence, prayed to grant anticipatory bail.

4] Learned APP Shri Hiwale resisted the application by filing reply Exh.8 and contended that offence is against against community. Offence is made out against the applicant which is serious. Investigation is in progress. If the applicant/accused is granted anticipatory bail, he may tamper with the prosecution evidence and may commit similar type of offence. Lastly, prayed to reject the bail application.

5] Informant opposed the bail application by filing reply at Exh.7 reiterating the allegations made in F.I.R. It is submitted that if the applicant/accused is granted anticipatory bail, he may threaten to her. Lastly, informant prayed to reject the bail application.

6] The Counsel of applicant is relying on following judgments;

- A] Kiran Vs.Rajkumar Jivraj Jain & Anr, 2026 ALL MR (Cri) 790 (S.C.),
- B] Vinod Pratap Rajput Vs. The State of Maharashtra & Anr, 2026 ALL MR (Cri) 188,
- C] Ratnakala Martanrao Mohite Vs. The State of Maharashtra & Anr, 2020 ALL MR (Cri) 334,
- D] Vaibhav s/o Shankarrao Pise Vs. The State of Maharashtra, 2025 AL MR (Cri) 3468,
- E] Javed Raza Shroff V. The Sate of Maharashtra, 2023 ALL MR (Cri) 2411,
- F] Janardhan Rambhau Tawde Vs. The State of Maharashtra, 2020 ALL MR (Cri) 283,
- G] Ganesh Ramchandra Naik Vs. State of Maharashtra, 2022 ALL MR (Cri) 1972.

7] Heard rival parties at length. Perused case diary. I have gone through the cited cases. The result of each cited case is based on facts and circumstances of that particular case. However, the principle laid down in the cited case has to be following while

considering the case in hand. It is well settled that there is a embargo of Section 18 of the Act to grant anticipatory bail where offence is prima facie made out. I am enlightened by the judgment passed by Hon'ble Supreme Court in the case of **Kiran Vs. Rajkumar Jain**, reported in **2025 INSC 1067**. While dealing with the application for anticipatory bail, the Hon'ble Supreme Court has pointed out that the absolute nature of bar of granting anticipatory bail under Section 18 of the Act, however, could be read and has to be applied with a rider. In a given case, where on the face of it, the offence under Section 3 of the Act is found to have not being made out and that the accusation relating to the commission of such offence are devoid of prima facie merits, the Court has a room to exercise a discretion to grant anticipatory bail to the accused under Section 438 of the Cr.P.C. [Sec.482 of BNSS]. It is further opined that the contents and the allegations in the FIR would be decisive in this regard.

8] Thus, it is clear that while ascertaining whether there is prima facie offence under Section 3 of the Act is made out or not, the Court is required to consider averments and allegations made in FIR only. On perusal of FIR in this case, it reveals that the victim is claiming that the applicant has sexually assaulted her in the year 2021 and obtained photographs in the mobile and threatened her to make it viral if she will narrate the incident to anyone. Thereafter, in the year 2024, he again committed rape on her threatening that he will show the photographs to her mother. Likewise, on 9.2.2026 at

about 11.00 a.m., the applicant again committed forcible sexual relations on her and threatened her not to tell anyone, else he will kill her husband. From bare reading of the FIR, it does not disclose that the applicant has committed sexual assault upon informant, deliberately being the informant is a woman from Scheduled Castes. The allegations are in general nature regarding sexual assault. Therefore, the provisions of S.C.S.T.Act are not prima facie applicable. Therefore, the application for anticipatory bail is maintainable.

9] So far as entitlement of anticipatory bail is concerned, the informant is claiming sexual assault by the applicant from the year 2021 to 2026. There is no explanation on record as to why she did not lodge complaint as soon as the earlier incident of sexual assault happened in the year 2021. Even it appears that there is delay of 15 days in lodging complaint from the last incident which alleged to have occurred on 9.2.2026. There is no explanation regarding the delay and omission on the part of informant in lodging complaint. In the reply, the informant is claiming that the applicant is used to harass her by obtaining photos and sending to her. There is no explanation as to how the applicant was in a position to obtain her objectionable photos. Therefore, it appears that there is substance in the contention of applicant that he is falsely implicated in the crime.

10] It is vehemently argued by the prosecution that there is apprehension that the applicant will pressurize the witnesses and the informant. To overcome this situation, stringent conditions may be imposed on the applicant restraining him entering into village till filing charge-sheet.

11] Considering above discussion, I am of the view that application deserves to be allowed. Hence, I proceed to pass the following order.

ORDER

- 1] The application is allowed in the following manner;
- i) In the event of arrest, applicant Shadab Khan Sakhawat Khan be released in Crime No. 54/2026 for the offences punishable under Sections 64, 126(2), 351(2) of the Bharatiya Nyaya Sanhita and Sections 3(1)(r)(s), 3(1)(w)(i)(ii), 3(2)(v)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 registered with Police Station, Andhera on executing Personal Bond of Rs.50,000/- (Rs. Fifty Thousand only) and on furnishing bail in the like amount;
 - ii) Applicant shall attend the concerned Police Station on every Monday at 10.00 a.m. to 12.00 noon till filing of the charge-sheet or further order, whichever is earlier;
 - iii) Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against them so as to dissuade them from disclosing such facts to the Court or to any police officer;
 - iv) Applicant shall submit a list of at least 2 blood relatives with their detail residential addresses and also the addresses of their

place of work, if any and documentary proof of showing the correctness of the details produced by them.

- v) Applicant shall submit copies of at least two documents amongst the Passport, PAN Card, Aadhar Card, Ration Card, Electricity Bill or Voter Identity Card issued by the Election Commission of India.
 - vi) Applicant shall not pressurize to the complainant and witnesses.
- 2) Accordingly, inform to the concerned Police Station.

Buldhana
Date: 20.3.2026

(Shaikh Akbar Shaikh Jafar)
Additional Sessions Judge,
Buldhana