

MHNS070002692026



Order Below Exh. 07 in Criminal Bail

Application no. 121 of 2026

Rajiv Panditrao Mhaskar

Vs.

The State of Maharashtra

1. Vide present application the original complainant/informant Shekhar Ashok Patil seeks to intervain in the present bail application and to submit his version, in the course of hearing of present anticipatory bail application. Ld. APP has scribed on the application itself, for passing suitable orders.

2. Application is resisted at the instance of accused/applicant, by scribing his objection overleaf of the application itself. Ld. Advocate for the applicant/accused submits that this complainant does not get covered within the definition of “victim” as described in Section 2(1)(y) of the B.N.S.S., 2023. Further submitted that this complainant is neither the aggrieved party, nor has suffered any loss, thus, has no locus to intervene in the present bail proceedings. Further, placing reliance on order dated 23.10.2024, passed by the Hon’ble High Court, Bombay in ***Writ Petition No. 2492 of 2024, in the matter between Nishant Namdevrao Gatkal and Anr. Vs. The State of Maharashtra and Anr.***, it is vehemently submitted that the said order is passed by the Division Bench, wherein the directions are issued of complaints pertaining to Education Department, ought not to be entertained by third party rank-outsider persons. Also submitted that the Investigating Officer has filed a detailed say running into 7 pages, to the present bail application, thus, nothing more would remain for the complainant to add or point out during the course of argument. Accordingly, submitted that the complainant has no locus to be heard and accordingly his application

seeking intervention is to be rejected.

3. Per Contra, Ld. Advocate for the intending intervener, placing reliance upon order dated 11.09.2008, passed by the Hon'ble High Court, Bombay in ***Criminal Application No. 2862 of 2008 in the matter between Vinay Potdar Vs. State of Maharashtra***, vehemently submits that even in an application seeking anticipatory bail, the complainant can intervene for pointing out factual aspect of the case and the Court is bound to hear such complainant. Further submitted that thus, as per the said order a complainant cannot be denied a right of making oral submissions either in person or through his counsel.

4. Ld. Advocate for the intending intervener, further submitted that inspite of a 07 page objection filed by the Investigating Officer, at least 03 aspects remained by him, were informed to him today; thus, for the purpose of pointing out such factual aspect not covered by the I.O., complainant is required to be heard, accordingly ought to be permitted to be intervened. Accordingly, submitted to permit the complainant to intervene in the present anticipatory bail application.

5. Undisputedly, definition of the victim as appearing in Section 2(1)(y) of the B.N.S.S., 2023, indeed does not include the term, complainant or the informant or first informant or as such. Thus, apperrantly in all the cases complainant probably cannot be equated with the term 'victim' or cannot be considered so. There may be instances at the complainant may be the victim of the offence, but in those circumstantial he would get covered as per definition in Section

2(1)(y) of B.N.S.S., 2023. Ld. Advocate for the intending intervener does not claim the complainant to be a victim, under the present FIR, in respect of which instant bail application is preferred.

6. ***Vinay Potdar (Supra)*** preferring and reiterating various rulings passed by the Hon'ble Supreme Court and the High Courts has held that a complainant is entitled for oral submissions either in person or through his counsel, even in an application seeking anticipatory bail. Thus, ***Vinay Potdar (Supra)*** would be helpful to the complainant seeking intervention in present bail application. The issue involved in ***Vinay Potdar*** was directly to the point of a right of complainant to intervene as such.

7. In ***Nitin Gatkar (Supra)***, Hon'ble High Court has indeed reiterated and repeated that Education Department and Statuary Authorities to refrain from entertaining such complaints/applications/representations or of threats, by unconnected people, more so in view of Notification dated 03.12.1958, Circular dated 26.12.2019 and Government Resolution dated 14.10.2019.

8. However, the issue involved in ***Nishant (Supra)*** was about a Deputy Director of Education, Nashik Division, having taken cognizance about a complaint lodged by a person rank-outsider. In ***Nishant (Supra)*** order was passed to place the copy of this cited order before the Chief Secretary of the State, as well as Principal Secretaries of the General Administrative Department and also of School and College Department to issue strict direction to all the Education Department and Statuary Authorities to refrain from entertaining complaint from unconnected people. As against this, complaint is

already lodged, present is the application seeking permission for intervention in anticipatory bail application, which was not the issue for consideration in *Nishant (Supra)*. Thus, *Nishant (Supra)* would be not of much help to the present applicant / accused, atleast at this stage to oppose complainant's intervention in this application. Hence, application Exh. 25 allowed, permitting the complainant to entertain and state his version in the course of argument.

Date :- 31.01.2026

(Y. H. Ameta)
Additional Sessions Judge,
Malegaon.