

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.925 OF 2020**

Jeens Kuriakos Thomas .. Applicant
Vs.
The State Of Maharashtra .. Respondent

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Mr. Tapan Thatte a/w Pranav Bhoite, Shantanu Adkar i/b Meeta Kamble,
Advocate for Applicant.
Mr. S. S. Pednekar, A.P.P. for the State-Respondent.

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**CORAM : PRAKASH D. NAIK, J.
DATE : 31st MARCH, 2021**

PC.

1. This is an application for bail in connection with C.R. No.430 of 2019 registered with Hill Line Police Station, Thane City for the offence punishable under Section 376 of the Indian Penal Code, 1860 (for short "IPC"). The applicant was arrested on 22nd December 2019.

2. The case of the complainant is that she was advised to undergo CT scan of brain. She has visited the CT scan center. The applicant was working as C.T. Scan Technician. She was made to lie down on the table and remove her undergarment. The applicant had allegedly fingered private part of the victim. The FIR was lodged on 22nd December 2019. On completing investigation, charge-sheet was filed.

3. Learned counsel for the applicant submitted that the case of the prosecution is false. The applicant has been falsely implicated in this case. There are contradictions in the statements of the complainant and the other witnesses. There are contradictions in the statement of the complainant under Section 161 and 164 of Cr.P.C. The complainant has improved her version in subsequent statement. There is motive for implicating the applicant. Statements of the witnesses indicate that the complainant and her mother-in-law had created ruckus at the CT scan center. Amount which was spent for undergoing CT scan was refunded to the complainant. The case of the complainant is doubtful. The CT scan report is on record. If the case of the complainant is accepted, it can be inferred that there CT scan was not conducted, which is falsified by the CT scan report. The statements of husband of the complainant and the other relatives to whom complainant had called at CT scan center were not recorded. The applicant is a young boy having no criminal antecedents against him. He is in custody from 22nd December 2019.

4. Learned APP submitted that the version of the complainant cannot be disbelieved at this stage. The contradiction if any, are to be considered at appropriate stage. The submission that the applicant has

falsely implicated in this case cannot be accepted. The statement of the witness who is concerned with the CT scan center that the amount was refunded is biased. Statement of the complainant and her mother-in-law recorded under Section 161 and 164 of Cr.P.C. are required to be taken into consideration.

5. The applicant is in custody for a period of about more than a year. Charge-sheet is filed. As stated above, there is improvement in the subsequent version of the complainant, she has improve her case. The complainant proceeds with the allegation that there was no CT scan. However, there is report on record which shows that she had undergone CT scan on the same day. Considering the statement of witnesses, it can be seen that there is doubt about the version of complainant. In the statement under Section 164 of Cr.P.C., she has stated that CT scan was indeed conducted. This is apparently to coverup her version in FIR. The complainant and the mother-in-law had referred to the presence of husband of the complainant. His statement is not recorded. The medical evidence conducted immediately after the incident does not indicate any fresh internal and external injury. Hence case for grant of bail is made out.

:: O R D E R ::

- (i) Criminal Bail Application No.925 of 2020, is allowed;
- (ii) The applicant is directed to be released on bail in connection with C.R. No.430 of 2019 registered with Hill Line Police Station, Thane City on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) The applicant shall report Hill Line Police Station once in a three month on first Saturday of the month between 11:00 a.m. to 01:00 p.m. till further order;
- (iv) The applicant is permitted to furnish provisional cash bail in the sum of Rs.25,000/- for a period of eight weeks.
- (v) Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)