

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 3260 OF 2022

Pankaj Kumar Jagroop Diwakar

...Applicant

Versus

The State Of Maharashtra And Anr

...Respondents

Ms. Sana Raees Khan a/w Radhika Mundada for applicant.

Mr. Aniket Pardeshi for respondent no. 2.

Ms. A.A. Takalkar, APP for State.

PSI Shirdhankar P.M., Andheri Police Station is present.

CORAM: M. S. KARNIK, J

DATED: DECEMBER 16, 2022

PC:-

- 1.** Heard learned counsel for applicant.
- 2.** This is an application for bail filed by the applicant -Pankaj Kumar Jagroop Diwakar, in connection with C.R. No. 417 of 2022, registered with Andheri Police Station, for the offence punishable under sections 376(2)(f), 377, 328, 323, 506 of the Indian Penal Code, 1860.
- 3.** It is alleged by the prosecutrix that the applicant is related to her. According to prosecutrix, the applicant is the husband of her cousin sister. It is alleged that by spiking her drink with some intoxicant, the applicant raped her on 23/04/2022. The charge-sheet has been filed and the

investigation is complete. The learned counsel for the respondent no. 2 (prosecutrix) herein filed an affidavit dated 08/12/2022 of the prosecutrix that due to some misunderstanding, the offence was registered. Considering the nature of the offence, learned APP opposed the bail application and further requested not to grant bail.

4. I found that in the affidavit it is stated that physical relations between the prosecutrix and applicant were consensual in nature. The prosecutrix is personally present in the court through her advocate. It is submitted that on account of misunderstanding, in the fit of rage against the applicant, the First Information Report came to be filed. It is further stated that the affidavit is duly signed by the victim and the statements therein are correct. The applicant is in custody since 11/06/2022 for a period of almost 6 months. No purpose will be served by prolonging the custody of the applicant as the trial is not likely to commence any time soon. Considering the nature of the materials on record, the applicant can be enlarged on bail. Hence the following order.

ORDER

(a) The applicant - Pankaj Kumar Jagroop Diwakar, in connection with C.R. No. 417 of 2022, registered with Andheri Police Station,

shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more sureties of the like amount.

(b) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.

(c) The applicant shall report to the concerned police station as and when called.

(d) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, if there is any change.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant should not tamper with evidence.

5. The application is disposed of.

(M. S. KARNIK, J.)