

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1675 OF 2023

Atik Firoz Pathan

.... Applicant

Versus

The State of Maharashtra
and another

.... Respondents

.....

Mr. P.M. Salunke, Advocate for the Applicant

Mr. K.S. Patil, APP for Respondent-State

Mr. V.L. Bhange, Advocate for Respondent No.2

.....

[CORAM : S. G. CHAPALGAONKAR, J.]

DATE : 17th OCTOBER, 2023

ORDER :

1. The applicant seeks regular bail in connection with Crime No.0849 of 2023 registered with Rahuri Police Station, District Ahmednagar for the offences punishable under sections 376, 354-A, 354-C and 506 of the Indian Penal Code.

2. The informant lodged report dated 04.08.2023, alleging that she is student of B.Sc. and taking her education at the College at Kopergaon. She alleged that since June 2022, she had acquaintance with the accused and they are friends. Thereafter, they developed affinity for each other. In October 2022, the accused took her to Shirdi for Darshan. He took her in a Hotel room and demanded for sexual favour. Although she denied, he pressurized her and forcibly made sexual intercourse. She alleges that the accused had video graphed the incident in the Hotel, and threatened her that he would

make it viral. Thereafter, on 03.08.2023, the accused messaged her that he would be coming to her home. Thereafter, she disclosed the incident to her mother and also maternal uncle.

3. On the basis of aforesaid report, Crime No.0849 of 2023 has been registered against the applicant accused for offences punishable under sections 376, 354-A, 354-C and 506 of the Indian Penal Code. The applicant has been arrested on 04/08/2023. Since then he is behind the bar.

4. Learned advocate for the applicant vehemently submits that the applicant has been falsely implicated in the crime. He submits that there was love affair between the applicant and informant, however, due to some misunderstanding, false complaint has been lodged. He would invite attention of this Court to the remand *yadi*, wherein the date of commission of offence, so also, the place of the incident has been changed at the instance of the informant. He would, therefore, submit that no offence under section 376 or 354 of the Indian Penal Code can be made out against the accused. The applicant is a student. He is behind the bars for more than 70 days. Further detention of the applicant would not be necessary.

5. Learned APP strongly opposes the prayer for grant of bail. He would submit that the mobile instrument in which the incident is video graphed has been recovered at the instance of the applicant and it is sent for expert analysis. He would submit that applicant's role is mentioned in the F.I.R. which constitute serious offences. He would therefore submit that

there is no case for grant of bail. Hence, he urges to reject the application.

6. Learned advocate appearing for the informant/complainant filed affidavit, wherein she states that she has no objection if the applicant is enlarge on bail.

7. Having considered the submissions advanced, apparently, the informant is a major college going girl, and understands worldly affairs. From the narration given in the F.I.R., it can be gathered that since June 2022, she had love affair with the applicant, and in the month of October 2022, she had been to Shirdi along with him. The remand report discloses that date of commission of offence, and even the place of the incident has been changed. Although she alleges that the incident was video graphed at Shirdi by the applicant and he was blackmailing her using the same, the seizure *Panchanama* in respect of mobile instrument shows that no such video or photograph was found in the memory of the mobile. Although alleged incident is stated to be of October 2022, the F.I.R. is lodged in August 2023. The delay is not properly explained. In that view of the matter, the contention raised on behalf of the applicant regarding consensual physical relations cannot be ruled out. On *prima facie* consideration of the material on record, case is made out for grant of bail. Hence, the order.

ORDER

(i) Bail Application is hereby allowed.

- (ii) The applicant – ATIK FIROZ PATHAN be released on bail in connection with Crime No.0849 of 2023 registered with Rahuri Police Station, District Ahmednagar for the offences punishable under sections 376, 354-A, 354-C and 506 of the Indian Penal Code. on his furnishing P.B. & S.B. of Rs.50,000/- (Rupees Fifty Thousand), on the following conditions :-
- [a] The applicant shall not tamper the prosecution evidence.
- [b] The applicant shall not establish any contact with the informant.
- [c] The applicant shall attend each and every effective date before the trial court.
- (iii) Bail application is accordingly disposed off.

[S. G. CHAPALGAONKAR]
JUDGE