

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

BAIL APPLICATION NO. 96 OF 2022

Rahul Prakash Tarkase	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. K. S. Labana a/w Mr. A. A. Karva i/by Mr. Jayesh Wani -
Advocate for the Applicant
Mr. H. J. Dedhia - APP for the Respondent-State
PSI Swati Jagtap – Kalyan Taluka Police Station

CORAM : S. M. MODAK, J.

DATE : 21st MARCH, 2023

P. C. :-

1. Heard learned Advocate for the Applicant and learned APP.
2. The Applicant is arrested on the allegation of having sexual intercourse with the victim on various occasions. On some occasions, it was by taking disadvantage of her loneliness and on other occasions by pressurizing her to accompany him and then having intercourse. On one occasion, the Applicant had gone to the extent of compelling her to consume a liquor. There was a threat given to kill her children, if she will not have intercourse with him.

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All these continued from 08/08/2021 upto 25/09/2021. Lastly, she refused to accompany him on 25/09/2021, the Applicant had gone to the extent of visiting the victim's house. Her brother and sister-in-law intervened and then the first informant has lodged the complaint with Kalyan Taluka Police Station and offence came to be registered under Sections 376, 376 (2) (n), 328, 452, 352, 504 and 506 of the Indian Penal Code.

3. Since then the Applicant is behind bar and charge-sheet is filed. It is contended that it is case of consensual intercourse. One of the reason quoted in the F.I.R. is taking disadvantage of her loneliness when she had gone to Kalyan Court for attending hearing of bail application of her husband. It is contended that in fact her husband was granted bail in the year 2018 only and copy of the order dated 23/03/2018 is placed on record and marked as 'Annexure-X'. So far as intercourse by giving threat to children is concerned, it is stated that there are no statements of the witnesses.

4. My attention is also invited to various entries from Sahara Lodging hotel. It shows that both of them have visited there on various occasions and in fact, the Aadhar Card number of the first informant is also mentioned therein. It is suggested that the first

informant went there willingly.

5. Learned APP invited my attention to the incident of 25/09/2022, when the Applicant threatened the first informant if she will not accompany him and according to the learned APP, if he is released on bail there are chances of repetition of the incidents.

6. The Applicant is ready to abide to any conditions including not to enter into that area. The charge-sheet is filed and it seems that relationship is consensual. These are my prima-facie observations for deciding the bail request. The trial court can decide the matter on the basis of the evidence. One does not know when the trial will commence. Subject to conditions, bail can be granted.

Hence following Order :-

ORDER

- (a) The Applicant – Rahul Prakash Tarkase arrested in connection with C.R No. 512 of 2021 registered at Kalyan Taluka Police station under Sections 376, 376 (2) (n), 328, 452, 352, 504 and 506 of the Indian Penal Code be released on bail on furnishing PR bond and surety bond in the sum of Rs.25,000/-.
- (b) The Applicant shall not threaten the prosecution witness.
- (c) The Applicant not to enter in Kalyan Taluka for one

year from today.

- (d) The Applicant is directed to provide alternate address of his residence to the concerned court and to the investigating officer.
- (e) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail.

7. Application is disposed of in the aforesaid terms.

8. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]