

VRJ

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

**BAIL APPLICATION NO.991 OF 2023**

|                          |                |
|--------------------------|----------------|
| Rahul Laxman Padmakar    | ... Applicant  |
| <b>V/s.</b>              |                |
| The State of Maharashtra | ... Respondent |

Mr. Kuldeep U. Nikam for the applicant.

Mr. Pandurang H. Gaikwad, APP for the respondent/State.

Mr. Ramesh S. Babar, API, Warje Malwadi Police Station is present.

**CORAM : AMIT BORKAR, J.**

**DATED : JUNE 30, 2023**

**P.C.:**

1. This is an application under section 439 of the Criminal Procedure Code, 1973, in connection with C.R. No.20 of 2019 registered with Warje Malwadi Police Station, District Pune on 18<sup>th</sup> January 2019 for offences punishable under sections 376(2) (n), 452, 323, 504, 506 read with section 34 of the Indian Penal Code, 1860, and section 142 of the Maharashtra Police Act.

2. According to the prosecution, the complainant and the applicant are neighbours. It is alleged that since August 2018, the applicant used to harass the complainant. She, therefore, filed FIR No.344 of 2018 under sections 341, 452, 354, 354A, 323, 506(2)

of the Indian Penal Code, 1860, and section 4(25) of the Arms Act. It is alleged that the applicant used to forcibly enter in the house of complainant and was having forcibly sexual intercourse with the complainant. Upon her resistance, he used to assault her physically. As she was scared, she did not narrated incident to anyone. Finally on 11<sup>th</sup> January 2019 around 12:30 a.m., the applicant came in front of the complainant's house and started banging the door of the house loudly. When the complainant came out of her house, she was assaulted with fists and blows by the applicant. She, therefore, called police. Therefore, the applicant ran away from her house. She lodged a report with concern police station.

3. The applicant was arrested on 18<sup>th</sup> January 2019. After completion of investigation, the investigating agency filed charge sheet.

4. I have perused the charge sheet. It contains statements of the complainant under section 164, her son and her husband. The record indicates that by order dated 2<sup>nd</sup> February 2017, the applicant was externed from area of Commissionerate of Pune, Paud, Mulshi, Purandar and Haveli for two years under section 55 of the Maharashtra Police Act. Alleged incidences occurred from August 2018 till January 2019. Statement of her husband indicates that he was aware of the acts of the applicant, however, due to fear of the applicant, they did not lodge report. Statement of son indicates that the applicant used to come in their house in the night and used to leave house in the morning. He used to assault the complainant.

5. Aforesaid factors indicate that there were repeated incidents of sexual intercourse. Factor of fear of the applicant, which prevented complainant from filing report needs to be adjudicated during the trial. However, in the absence of details of the incidents such as month or week, and on overall consideration of aforesaid factors including period of externment entitles applicant to be released on bail, however, subject to conditions.

6. Learned advocate for the applicant, on instructions, states that during pendency of the trial the applicant shall not enter in the area of Commissionerate of Pune except for the purpose of attending the trial. Statement is accepted.

7. Hence, following order:

a) The applicant Rahul Laxman Padmakar shall be released on bail in connection with C.R. No.20 of 2019 registered with Warje Malwadi Police Station, District Pune on 18<sup>th</sup> January 2019 for offences punishable under sections 376(2)(n), 452, 323, 504, 506 read with section 34 of the Indian Penal Code, 1860, and section 142 of the Maharashtra Police Act, on furnishing PR Bond in the sum of Rs.50,000/-, along with one or two sureties in the like amount;

b) The applicant shall report to Chinchwad Police Station once in a month on first Saturday between 11:00 a.m. to 02:00 p.m. till the conclusion of the trial;

c) The applicant shall remain present before the Sessions Court on each date unless exempted by the Court;

- d)** The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer;
  - e)** The applicant shall not obstruct or hamper the police investigation and not to play mischief with the evidence collected or yet to be collected by the police;
- 8.** The bail application is disposed of in above terms.

**(AMIT BORKAR, J.)**