

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

BAIL APPLICATION NO. 1391 OF 2022

Maqsood @ Imran Mansoor Khan

..Applicant

v/s.

The State of Maharashtra .

..Respondent

Mr. Shehzad Naqvi i/b. Adv. Sana Samad , Adv. Shilpa Sharma
for the Applicant.

Mr. Shrikant Yadav, APP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 23rd MARCH, 2023.**

P.C.

1. At the outset, learned Counsel for the Applicant seeks leave to amend prayer clause (b) as to incorporate Sessions Case number in the said clause. Leave granted. Amendment to be carried out forthwith.

2. This is an application for bail filed under Section 439 Cr.P.C. by the aforesaid Applicant, who is facing trial in Sessions Case No. 1594 of 2019 pending on the file of the learned Sessions Judge, Court Room No. 39, Session Court, Mumbai, arising from Crime No. 483 of 2019 registered with Bandra Police Station, for offences under Section 376 (2)(n), 392, 383, 313, 323, 506 IPC and 66(E) of Information Technology Act.

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3. Heard learned Counsel for the Applicant and learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

4. The aforesaid crime was registered pursuant to the FIR lodged by the victim. A perusal of the FIR prima facie reveals that the Applicant and the victim were known to each other. They had sexual relationship with each other. The material on record prima facie indicates that the Applicant and the victim, both adults, had entered into consensual sexual relationship. The grievance of the victim is that the Applicant had taken some obscene videos and posted the same on Whats App.

5. It is to be noted that apart from forwarding the mobile of the Applicant to the forensic laboratory vide letter dated 17.05.2019, the Investigating Officer has till date not taken any steps to procure the report. Consequently, there is no prima facie material to indicate that the Applicant had posted the videos of the Applicant on Whatsapp. It is also pertinent to note that offence under Section

66(E) of the Information Technology Act, which is an offence alleged to have been committed by the Applicant is punishable with maximum punishment of 3 years. It is stated that the Applicant is in custody since the year 2019. Considering all the above facts and circumstances, in my considered view, this is a fit case to exercise discretion under Section 439 of Cr.P.C.

6. Hence the application is allowed on the following terms and conditions:-

(i) The Applicant who is facing trial in Sessions Case No. 1594 of 2019 pending on the file of the learned Sessions Judge, Court Room No. 39, Session Court, Mumbai, arising from Crime No. 483 of 2019 registered with Bandra Police Station, be released on bail on furnishing PR Bond of Rs.40,000/- (Rupees Forty Thousand Only) with one or two sureties in the like amount;

(ii) The Applicant shall appear before the Sessions Court on each and every date of hearing;

(iii) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;

(iv) The Applicant shall keep the Investigating Officer informed of his permanent as well as temporary address, if any, and his contact details, and/or change of residence or mobile details from time to time.

. Application stand disposed of.

(ANUJA PRABHUDESSAI, J.)