

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

BAIL APPLICATION NO. 1184 OF 2023

Kundan Singh Dangi

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Adv. Lakshmi Raman a/w. Adv. Soumya Kamat for the Applicant.
Mr. Abhishek Yende a/w. Surbhi Agrawal for the Intervenor.
Mr. S.V.Gavand, APP for the State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : 6th JUNE, 2023.**

P.C.

1. This is an application under Section 439 Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No. 635 of 2022 pending before the Sessions Court, Dindoshi, Mumbai. The said case arises from C.R. No. 399 of 2022 registered with Amboli Police Station, for offences under Section 376(2)(n), 323, 324, 420, 506 of the Indian Penal Code.

2. The records reveal that this Court (Coram : Bharati Dangre, J.) had earlier released the Applicant on bail since the Applicant and prosecutrix had agreed to solemnize the marriage. The Applicant subsequently filed an application stating that he was unable to

solemnize the marriage with the prosecutrix, and sought relaxation of condition regarding solemnization of marriage. The said interim application was allowed and since the application was otherwise not decided on merits, order dated 22.10.2022 was recalled and the Applicant was taken in custody. Hence this application .

3. The FIR prima facie reveals that the Applicant and the prosecutrix, both adults, were known to each other, and that they have indulged in consensual sexual activity. The FIR prima facie reveals that the prosecutrix was suspecting that the Applicant was having amorous relationship with other girls, which led to squabble and quarrel between both the parties. The prosecutrix has alleged that the Applicant used to assault and abuse her.

4. In my considered view, the relationship between the Applicant and the prosecutrix , both adults, was consensual and hence essential ingredients of rape within the meaning of Section 375 IPC are not made out. The offence under Section 504 and 324 IPC are bailable offences. Furthermore, chargesheet has been filed. It is stated that charge is not yet framed. Considering the large pendency, the trial is not likely to commence in immediate future.

Considering the above facts and circumstances, the Application is allowed on the following terms and conditions:-

- (i) The Applicant who is facing trial in Sessions Case No. 635 of 2022 pending before the Sessions Court, Dindoshi, Mumbai, is ordered to be released on provisional cash bail of Rs.40,000/- for a period of four weeks;
- (ii) The Applicant shall within the said period of four weeks furnish bail bonds in the sum of Rs.40,000/- (Rupees Forty Thousand Only) with one or two solvent sureties in the like amount;
- (iii) The Applicant shall report to the Investigating Officer on the first Saturday of every month till framing of the charge.
- (iv) The Applicant shall not interfere with the complainant or the other witnesses, or tamper with the evidence in any manner;
- (v) 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.

- . Parties to act on an authenticated copy of this order.
- . Application stands disposed of.

(ANUJA PRABHUDESSAI, J.)