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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1574 OF 2023

Karan @ Kanaram Mulchand
Chhipa

...Applicant

vs.

State of Maharashtra
[At the instance of
Bhyander Police Station)

...Respondent

Mr. Nilesh Pandit – Advocate for Applicant.
Mr. H.J.Dedhia – APP for Respondent-State.
Mr.Sagar Chandrakant Tikekar- PI- Bhyander Police Station.

CORAM : S. M. MODAK, J.

DATED : 30TH JUNE 2023

P. C. :

1. Heard learned counsel for the applicant and learned APP for the State.
2. The applicant is in custody pursuant to an allegation of sexual intercourse. FIR came to be lodged after a gap of almost 2½ months. Incident took place on 19/12/2022 and FIR came to be lodged on 21/02/2023 with Bhyandar Police Station. It is punishable under Section 328, 376 of IPC.

3. The allegations are that she was asked to drink Sprite cold-drink and after drinking she felt giddiness. By taking disadvantage applicant removed clothes of the first informant and raped her. After ½ an hour when she gained consciousness she realised about the incident and she was threatened of making her obscene photographs viral. Then she was dropped at the auto rickshaw stand at about 16.30hrs. She contacted her friend Smt.Sonu@ Sangita Jain, whose statement is at page 50 which is dated 05/03/2023.

4. There is one more reason for taking disadvantage and that is financial difficulty of first informant. She works in a Beauty Parlour. It was closed down during the Corona. The applicant is having ladies clothes store by name Shagun. Both of them know each other. Firstly informant was in need of Rs.50,000/-. The applicant showed her willingness of arranging of finance and on the date of incident i.e. on 19/12/2022, he took her to Gorai and then the incident took place.

5. Learned APP submitted that the applicant is in the habit of committing sexual offences. Earlier to this, 2 offences are registered against him. Involvement of Section 354B of the IPC is there. He

submitted that considering the status, the applicant cannot be given benefit of bail on the ground of delay in approaching the police.

6. In support of the bail prayer learned advocate relied upon following Judgments:

1. Chittaranjan Roy Vs. The State of Tripura, Cr. A.No.76/2010 dtd.09/02/2011
2. Prabhakar Tiwari Vs. State of UP and Ors. Cr.A.No.152/2020 dtd.24/01/2020
3. Mumtaz Vs. State (NCT of Delhi) and ors. BA No.3165/2022 dtd.28/12/2022

Furthermore, he submitted that though there is a statement of the Manager of the Hotel at Page No.52 he does not make reference taking entry in the register. However, he has produced photocopies of Account of both of them. The applicant has given financial assistance to the first informant. There are two entries of transferring the money on page 116 and 117 to the tune of Rs.5000/- and Rs.500. The name of first informant is different from the names described in those Bank Statements, but shows nothing but first informant only.

7. Chargesheet is already filed. It is true that in sexual offences

parameters for considering delay in different. But, it is a fact that the first informant accompanied the applicant to Gorai on Scooty. Furthermore, Bank statement shows advancing of money and that took place after the incident. Whether, it helps the accused or whether it supports the contention of first informant that shows intention of offence can be considered at the time of trial. I am inclined to grant bail to the applicant. Charge-sheet is filed. Trial is not likely to commence in near future. If there are other offences still this application is to be decided on its own merit. In view of the above case is made out for grant of bail. Hence, order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant Karan @ Kanaram Mulchand Chhipa be released on bail in connection with C.R. No. 81 of 2023 registered with Bhyandar Police Station for the offences punishable under Sections 328 and 376 of IPC on furnishing personal bond and surety bond of Rs.50,000/- .
- (iii) Applicant is directed to attend Bhyander Police Station on First Friday of every Month from 10.00a.m. to 12.00noon for one year.
- (iv) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

8. These are my prima facie observations. Let the learned trial

Court need not be influenced by them.

9. Application is disposed of in the aforesaid terms.
10. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]