



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

BAIL APPLICATION NO. 2391 OF 2023

SANJOY SHIVDAS MUKHERJI ..APPLICANT

VS.

THE STATE OF MAHARASHTRA ..RESPONDENT

Adv. Nikhil Wadikar a/w Adv. Shweta Pandey i/b Adv. Sejal Jain for the Applicant.

Adv. Sangharsh V. Waghmare for the First Informant/Intervener.

Ms. Veera Shinde, APP for the State.

P.I. Nitin Tadakhe, Azad Maidan Police Station and PSI Sudhir Korgaonkar, Kasturba Police Station.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 06, 2023

P.C. :

1. Heard learned counsel for the applicant, learned counsel for the intervener and learned APP for the State.

2. This is an application for bail in respect of the offence punishable under Sections 376(2)(n), 376(2)(e), 377, 342 of the Indian Penal Code and Section 66E of the Information Technology Act, 2000, registered on 10/02/2020 vide C.R. No.67 of 2020 with Kasturba Marg Police Station, Mumbai.

3. Learned APP and learned counsel for the intervener/prosecutrix opposed the application.

4. The applicant was arrested on 12/02/2020. I have gone through the statement of the prosecutrix dated 10/02/2020. The accusations are undoubtedly serious. There are 3 incidents which the prosecutrix alleged against the applicant, first in September 2018, second in the last week of September 2018 and then third in October 2018 which constitutes the aforesaid offence, under the aforesaid sections. As the First Information Report (FIR) was lodged on 10/02/2020, according to the learned counsel for the applicant, there is a delay in lodging the FIR. In the facts and circumstances of the present case, I am not inclined to proceed on the footing that there is a delay in lodging of the FIR as this aspect is to be gone into by the trial Court at the time of the trial.

5. The mobile phone and laptop of the applicant are already seized. One of the submission of the learned APP and learned counsel for the prosecutrix is that the applicant is not a Doctor. The version of the prosecutrix, reveals that

the applicant during the counselling sessions is accused of having committed the offence. The applicant has a Post Graduate Diploma in Psychological Counselling. Learned counsel for the applicant has further submitted that the applicant has a Doctorate in Philosophy (Alternative medicines).

6. An apprehension is expressed that the applicant may tamper with the witnesses and may again resort to similar activities. Learned counsel for the applicant, on instructions, submitted that the applicant till the conclusion of the trial will not act as a counsellor and is willing to stay outside Mumbai. The statement is accepted.

7. The investigation is complete and the charge-sheet has been filed. There are no criminal antecedents reported against the present applicant. The trial has not yet commenced as even the charge has not so far been framed. The applicant has been in custody for more than 3 years and 7 months with no possibility of trial concluding any time soon. Further custody of the applicant will only be by way of a pre-trial punishment. The applicant will face the

consequences of the trial, if found guilty. In this view of the matter, I am inclined to enlarge the applicant on bail by imposing conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Sanjoy Shivdas Mukherjee in connection with C.R. No. 67 of 2020 registered with Kasturba Marg Police Station shall be released on bail on his furnishing P.R. Bond of Rs.50,000/- with one or more local sureties in the like amount.
- (c) The applicant shall attend the Investigating Officer of Kasturba Marg police station once in a month every first Monday of the month between 11.00 a.m. and 1.00 p.m.
- (d) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.
- (e) On being released on bail, the applicant shall furnish his contact number and residential address where he will reside outside Mumbai/Mumbai Suburban to the Investigating Officer and shall keep him updated, in case there is any change.
- (f) Except for attending the trial and for the purpose of

reporting to the Investigating Officer, the applicant shall not enter Mumbai/Mumbai Suburban District after being released on bail, till the trial concludes.

(g) The applicant shall not act as a counsellor till further orders of the trial Court.

8. The application is disposed of. Any interim applications pending are disposed of.

9. Learned counsel for the prosecutrix requests for stay this order. I am not inclined to accede to this request.

(M. S. KARNIK, J.)