



Diksha Rane

912.ba.4029-23.doc

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

**BAIL APPLICATION NO.4029 OF 2023**

MAHESH SUDAM GHOLAP

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

-----  
Adv. Nitin Gaware Patil a/w. Adv. Anandmaya Dhorde for the  
applicant.

Mr. Y. Y. Dabke, APP for the State.

PSI Sanjay Yadav, Kapurbawdi Police Station, Thane City.  
-----

**CORAM : M. S. KARNIK, J.**

**DATE : DECEMBER 19, 2023**

**P.C. :**

**1.** Heard learned counsel for the applicant and learned  
APP for the State.

**2.** This is an application for bail in respect of the offence  
punishable under Section 376 of the Indian Penal Code  
(hereafter 'IPC' for short) registered on 3/8/2023 vide C.R.  
No.270/2023 with Kapurbawadi Police Station, Thane.

**3.** The date of the incident is 2/8/2023. The applicant is a  
signatory as the witness to the leave and license agreement  
which was executed by the licensor in favour of the  
licensees of which the prosecutrix was also a licensee. The  
applicant's sister-in-law was a licensee as well. The

applicant's sister, the prosecutrix and one of their friend 'S' were residing in the licensed premises. The agreement was executed on 8/4/2023. The applicant is a signatory to the agreement as a witness whereas the aforesaid occupants are licensees.

**4.** It is alleged by the prosecution that on the date of the incident, the applicant called the prosecutrix to the room of his sister and asked her to hand over her mobile on which he started watching obscene videos. It is thereafter alleged that the applicant committed an act on the prosecutrix which is an offence punishable under aforesaid sections.

**5.** Learned counsel for the applicant submitted that the possibility of the consensual relationship between the parties cannot be ruled out. Alternatively it is further submitted that in the facts and circumstances, the possibility of a false complaint registered against the applicant cannot be ruled out as there was some dispute between the sister-in-law of the applicant and the prosecutrix over the licensed premises. These are the matters for the trial Court to decide when the trial is conducted.

**6.** Learned APP while opposing the application of bail submitted that there is no reason to doubt the statement of the prosecutrix.

**7.** The parties are known to each other very well. Considering the medical history, the documents on record, the statement of the prosecutrix, in my opinion, further incarceration will only be by way of pre-trial punishment as the charge-sheet has been filed and the investigation is complete. The applicant was arrested on 3/8/2023 and now is in custody for more than four months with no possibility of the trial concluding any time soon. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. The applicant can be enlarged on bail by imposing conditions. Hence, the following order :-

**ORDER**

(a) The application is allowed.

(b) The applicant- Mahesh Sudam Gholap in connection with C.R. No.270/2023 registered with Kapurbawadi Police Station, Thane, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more local sureties in

the like amount.

(c) The applicant shall attend the Investigating Officer of Kapurbawadi police station, Thane, once in three months on the 1<sup>st</sup> Saturday between 11.00 a.m. and 1.00 p.m. commencing from January 2024, till further orders of the trial Court.

(d) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter Thane City as well as the jurisdiction of the police station where the offence is registered after being released on bail, till further orders of the trial Court.

(e) 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.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) It is made clear that any attempt on the part of the applicant to contact the victim may entail the consequence for the cancellation of bail.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

**8.** The application is disposed of.

**(M. S. KARNIK, J.)**