



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

BAIL APPLICATION NO. 4122 OF 2023

NIRAJ KUMAR GUPTESHWARLAL
SRIVASTAV
VS.

..APPLICANT

STATE OF MAHARASHTRA

..RESPONDENT

Ms. Mallika Sharma i/b Ms. Anjali Patil, for the Applicant.
Ms. Rutuja Ambekar, APP for the State.

CORAM : M. S. KARNIK, J.

DATE : DECEMBER 22, 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 sections 376(1) read with 417 of the Indian Penal Code, 1860 registered on 22/11/2022 vide C.R. No.454 of 2022 with Aarey police station.
- 3.** The date of the FIR is 22/12/2022. The applicant was arrested on 20/04/2023. It is the submission of the learned APP that the applicant was absconding and had to be arrested. Learned APP also criticized the conduct of the applicant inviting my attention to the relevant portion of the statement of the prosecutrix whereby the applicant did not

even responded to the phone calls made by the prosecutrix.

4. The case of the prosecutrix is that she is an artist who was introduced to the applicant by a common acquaintance who assured her a role in a movie by the applicant who was a producer sometime on 01/07/2022. The applicant demanded sexual favour from the prosecutrix which she refused. Thereafter the producer called her in the evening to sign some documents. The prosecutrix met the applicant and accompanied him to Royal Palms whereafter they stayed there over night. It is alleged that the applicant committed an act on the prosecutrix which is an offence under the aforesaid sections. It is then alleged that the prosecutrix became pregnant whereafter she tried to contact the applicant but the applicant's mobile phone was not reachable. It is then the applicant realised that she had been cheated. Hence, the complaint in respect of the aforesaid offence came to be filed.

5. The applicant who was arrested on 20/04/2023 is now in custody for more than 8 months. The investigation is complete. The charge-sheet has been filed. The applicant will face the consequences post trial if found guilty. Further

incarceration of the applicant will only be by way of a pre-trial punishment. On the reading of the statement of the prosecutrix, prima facie, the possibility of the relationship being consensual cannot be ruled out. It is the submission of the learned APP that the applicant has taken advantage of the prosecutrix as she was in need of the work. These are the matters which will be evaluated by the trial Court during trial. The applicant can be enlarged on bail. There are no criminal antecedents reported against the applicant. I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Niraj Kumar Gupteshwarlal Srivastav in connection with C.R. No. 454 of 2022 registered with Aarey 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 Aarey police station once in a month on first Sunday of every 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 to the investigating officer and shall keep him updated, in case there is any change.

(f) The applicant shall not leave the State of Maharashtra without intimating the investigating officer.

(g) Except for attending the trial and for the purpose of reporting to the investigating officer, the applicant shall not enter the area of Dombivali police station where the prosecutrix is residing after being released on bail, till the trial concludes.

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

6. The application is disposed of.

(M. S. KARNIK, J.)