



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.82 OF 2024**

Arif Anwar Shaikh ... Applicant
versus
Senior Police Inspector and Ors. ... Respondents

Mr. Mateen Shaikh with Mr. Nadeem Shaikh, Mr. Razique Shaikh, Asif Shaikh, Mr. Ansar Tamboli Mr. J. Shaikh Ms. Muskan Shaikh, for Applicant.
Mr. S.R.Agarkar, APP for State.

CORAM: N.J.JAMADAR, J.

DATE : 11 JANUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail under Section 439 of the Code of Criminal Procedure, 1973. The applicant has been arraigned for the offences punishable under Sections 376, 376(2)(n), 354A, 354D, 323, 506 of the Indian Penal Code.
3. The first informant and the applicant were working in Modi-Hyundai, Thane. The victim was an Accountant. The applicant was an Administrative Officer. The first informant alleged that the applicant established proximity with her. Giving threats of physical violence and defaming her, the applicant allegedly had forcible sexual intercourse with the victim since the year 2018 on multiple occasions. The victim further alleged that the applicant had made her to part with a sum of Rs.5 Lakhs over a period of time. As the applicant started to send obscene messages from

unknown numbers, the victim mustered courage and lodged a report with the police.

4. Learned Counsel for the applicant submitted that the relationship between the applicant and the victim was consensual. The relationship lasted of more than six years. As the applicant and the victim fell apart, a false FIR has been lodged.

5. Learned APP resisted the prayer for bail. It was submitted that the allegations in the FIR indicate that the applicant had physically and financially exploited the victim. There are allegations of extorting amounts and coercing the victim to convert. Therefore, the applicant does not deserve the bail.

6. I have carefully perused the allegations in the FIR. Evidently, the alleged acts of exploitation lasted till the year 2021 from 2017. It prima facie appears that the applicant and the victim were in a consensual relationship and there were financial transactions between the parties. Evidently, the victim has had ample opportunities to make grievance against the applicant.

7. In the circumstances, especially having regard to the long standing relationship whether the consent of the victim for sexual intercourse was vitiated, would be a matter for adjudication at the trial. The investigating is complete. Chargesheet has been lodged. The applicant is in custody from 3 February 2023. In the facts of the case, further detention of the applicant does not seem to be warranted. I am, therefore, inclined to allow the application.

8. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Arif Anwar Shaikh be released on bail in C.R.No.93 of 2023 registered with Kashmir Police Station, on furnishing a PR bond in the sum of Rs.30,000/- and one or two sureties in the like amount to the satisfaction of the learned Sessions Judge.
- (iii) The applicant shall mark his presence before the concerned police station on first Monday of every month in between 11 am to 1 pm for a period of three years or till the conclusion of the trial and, thereafter, shall abide by the directions issued by the trial Court.
- (iv) The applicant shall not contract the victim in any manner whatsoever
- (v) The applicant shall not tamper with the prosecution evidence. The applicant shall not directly or indirectly make any inducement, threat or promise to the first informant or any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any police officer.
- (vi) 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.
- (vii) The applicant shall regularly attend the proceedings before the jurisdictional Court.

(viii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)