



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

CRIMINAL BAIL APPLICATION NO.174 OF 2024

Datta @ Divya Maruti Agavane	...Applicant
<i>Versus</i>	
The State of Maharashtra	...Respondent

Mr. Sachinkumar P. Rajepandhare, for the Applicant.

Ms. Anamika Malhotra, APP for the Respondent-State.

Mr. Prashant Ashok Kundurkar, HC 1231 attached to Pandharpur City Police Station present.

CORAM : MADHAV J. JAMDAR, J.

DATED : 15th JANUARY 2024

P.C. :

1. Heard Mr. Rajepandhare, learned Counsel appearing for the Applicant and Ms. Malhotra, learned APP appearing for the Respondent/State.
2. This is a regular Bail Application filed under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1.	C.R. No.	738 of 2023
2.	Date of Registration of F.I.R.	Pandharpur City Police Station, Pandharpur
3.	Police Station	03/12/2023

4.	Sections Applied	353, 332, 294, 143, 147, 149 of the I.P.C., 1860 and 135 of the Maharashtra Police Act, 1951.
5.	Date of Incident	02/12/2023
6.	Date of Arrest	04/12/2023

3. The allegation against the Applicant who is a transgender is that the Applicant has harassed and abused one devotee in the premises of *Shri Vitthal-Rukmini Mandir, Pandharpur*. The allegation against the Applicant is that the Applicant has abused the devotee. The allegation also includes that of demanding money, assault and of forcible disrobing.

4. Although the Chargesheet is not filed, in the Application seeking remand itself it is stated that the investigation is completed.

5. Learned Counsel appearing for the Applicant has pointed out paragraph Nos.19 to 21 of the Order passed by the learned Additional Sessions Judge, Pandharpur (“**impugned Order**”) where some unmerited and unnecessary observations were recorded. Even the learned APP, appearing for the State also states that such observations should not have been recorded. Such stereotypical and generalising observations regarding the behaviour of the transgenders is uncalled

for. Transgenders are citizens of this country. Article 21 of the Constitution of India protects the right to life and personal liberty of all citizens. The right to life includes right to live with dignity. Therefore, the observations which are recorded in Paragraph Nos.19 to 21 of the impugned Order should not have been recorded and are not required or material for consideration of a Bail Application.

6. Although, the Charge-sheet is not filed, the investigation is completed. The trial is unlikely to conclude any time soon and is likely to take a considerably long time. The Applicant does not appear to be a flight risk.

7. Accordingly, the Applicant can be enlarged on bail by imposing conditions. Hence, the following order:-

ORDER

(a) The Applicant-Datta @ Divya Maruti Agavane be released on bail in connection with C.R. No.738 of 2023 registered with the Pandharpur City Police Station, Taluka Pandharpur, District Solapur on his furnishing P. R. Bond of Rs.5,000/- with one or two sureties in the like amount.

(b) On being released on bail, the Applicant shall

furnish his cell phone number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(c) The Applicant shall report to the Pandharpur City Police Station, Taluka Pandharpur, District Solapur once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the filing of the Chargesheet.

(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/her from disclosing the facts to Court or any Police Officer.

(e) The Applicant shall not tamper with the evidence and shall not contact or influence the Complainant or any witnesses in any manner.

(f) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments.

(g) The Applicant shall surrender his passport, if any, to the Investigating Officer.

8. The Bail Application is disposed of.

[MADHAV J. JAMDAR, J.]