

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.152 OF 2024

Mohd. Noman Abdul Kader Mansuri	...Applicant
vs.	
The State of Maharashtra and Anr.	...Respondents

Mr.Akhilesh Singh i/b. Neetu Singh, for the Applicant.

Ms. Gauri Rao, APP, for the Respondent No.1/State.

CORAM : N. J. JAMADAR, J.

DATE : MARCH 26, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.
2. The applicant who is arraigned in C.R. No. 660 of 2023 registered with Kashimira police station for the offences punishable under sections 323, 376, 376(2) (n), 504 and 506 of Indian Penal Code, 1860 seeks to be enlarged on bail.
3. The applicant is a 20 year old boy. The first informant is a 22 year old girl. They both were working in a company at Malad (West), Mumbai. Their friendship developed. The applicant had forcible sexual intercourse with the first informant by giving a promise of marriage, despite her resistance. The applicant had allegedly threatened to make objectionable

photos and videos of the first informant viral and throw acid on her face and thereby sexually exploited her repeatedly. The applicant had taken the victim to various hotels for the purpose of sexual exploitation.

4. On 26th September, 2023, the applicant declared that he would not solemnize marriage with the first informant. Parents of the applicant and the first informant had a meeting, which resulted in an altercation at Mumbai Central Railway Station. Therefrom, they were taken to Agripada police station. FIR was lodged and the applicant came to be arrested.

5. The learned counsel for the applicant submitted that this is a clear case of consensual relationship between two adults. He invited attention of the Court to the statements of the managers of the two hotels where the applicant and the first informant had booked rooms online, on two different occasions. The learned counsel for the applicant submitted that the relationship was wholly consensual. As the relationship turned astray, a false FIR came to be lodged.

6. The learned APP resisted the prayer for bail. It was submitted that the allegations in the first information report indicate that the first informant was threatened to give consent for sexual intercourse.

7. I have perused the allegations in the FIR and the material on record. It appears that as the applicant and the first informant were working in the same company, their relationship developed. Prima facie it appears that the sexual relations were consensual. As is evident from the statements of the managers of the hotels, the applicant and the first informant had booked the rooms by showing their credentials. It is pertinent to note that a couple of days prior to 25th September, 2023, the applicant and the first informant had checked out from a hotel on 22nd September, 2023. Having regard to the age of the first informant, it appears that she had the maturity to understand the nature and quality of the act to which she consented to.

8. In the circumstances of the case, whether the consent of the first informant was vitiated on account of misconception of facts, would be a matter for adjudication at the trial as the relationship lasted for a considerable period.

9. The investigation is complete and the charge-sheet has been lodged. The applicant is 20 years old. Further detention of the applicant does not seem to be warranted and, therefore, I am inclined to exercise discretion in favour of the applicant.

10. Hence, the following order.

ORDER

I] The application stands allowed.

II] The applicant be released on bail C.R. No. 660 of 2023 registered with Kashimira police station, on furnishing a P.R. Bond of Rs. 30,000/- with one or more sureties in the like amount.

III] The applicant shall mark his presence at Kashimira police station on the first Monday of every alternate month between 11 am to 1 pm till conclusion of the trial.

IV] The applicant shall not contact the first informant and any of her relatives for any purpose whatsoever.

V] The applicant shall not tamper with prosecution evidence and give threat or inducement to first informant, any of the prosecution witnesses or any person acquainted with the facts of the case.

VI] 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.)