

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

BAIL APPLICATION NO.310 OF 2024

Rajendra Uttam Gangurde

.Applicant

Versus

The State of Maharashtra & Anr.

.Respondents

Mr. Narayan Rokade a/w. Mr. Anandmaya Dhorde-Patil, Mr. Udaysinh Deshmukh & Ms. Pratibha Pawar, Advocates, for the Applicant.
Ms. S. S. Kaushik, APP, for Respondent No.1 – State.
Mr. Kartik Garg, Advocate, for Respondent No. 2
Mr. Vijaykumar Kothawale, PSI-Vani Police Station, Nashik, present.

CORAM: MADHAV J. JAMDAR, J.

DATE: 03.04.2024

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1. Heard Mr. Rokade, learned Counsel for the Applicant, Ms. Kaushik, learned APP for Respondent No.1-State and Mr. Garg, learned Counsel for Respondent No.2.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1. C.R. No.	348 of 2023
2. Date of registration of F.I.R.	09.08.2023
3. Name of Police Station	Vani, Nashik
4. Sections invoked	363, 305, 309 of the I.P.C., 1860; 75 of the Juvenile Justice (Care and Protection) Act, 2015
5. Date of incident	08.07.2023 to 30.07.2023
6. Date of arrest	09.08.2023
7. Date of filing of Charge-sheet	06.11.2023

3. As per the prosecution case, the Applicant is a married person having two children. However, the Applicant was in a relationship outside of marriage with the victim who is aged 15 years and who is the daughter of the informant. The F.I.R. dated 09.08.2023 lodged by the informant shows that in or about June 2023, the victim had eloped with the Applicant. Thereafter, she returned to her house. It appears that thereafter, again she fled with the Applicant on 08.07.2023 and the informant i.e. father of the victim came to know that she was residing with the Applicant. The F.I.R. further states that on 30.07.2023, it was informed to the informant by the village Police patil that the victim i.e. informant's daughter and the Applicant have consumed poison. Therefore, both of them have been admitted in the Civil Hospital, Vani, Nashik. Thereafter, as both of them were in a critical condition, they were referred to the Civil Hospital, Nashik. The victim died on 31.07.2023 at about 9.00 p.m.. The present Applicant was admitted in the Civil Hospital, Nashik from 31.07.2023 till 09.08.2023 and was discharged from the Hospital on 09.08.2023. Thereafter, he was arrested immediately.

4. It is the contention of Mr. Rokade, learned Counsel for the Applicant that the Applicant and the victim were in a romantic relationship. He submitted that both of them consumed poison and in the said incident, the Applicant survived. He pointed out the statement of Dr. Rahul Ramrao Patait of Vani Rural Hospital, Vani, Nashik, wherein he has stated that both of them were brought to the

hospital in a critical condition after they had consumed poison. Both of them have stated that they consumed poison as per their own wish. He submitted that although the victim was a minor, she was capable of understanding the consequences of her actions. She eloped with the Applicant in or about June 2023. Thereafter, again on 08.07.2023 she fled with the Applicant and the incident in question occurred after about 22 days i.e. on 30.07.2023. In any case, he submitted that investigation is complete and charge-sheet has been filed. There are no antecedents.

5. On the other hand, Ms. Kaushik, learned APP for Respondent No.1-State and Mr. Garg, learned Counsel for Respondent No.2 vehemently opposed the Bail Application and submitted that the father of the victim had told the Applicant not to indulge in these activities. Both of them submitted that the Applicant is a married person aged 32 years. The victim was only 15 years old and was not capable of understanding the consequences of her action. Therefore, they prayed that the Bail Application be rejected.

6. However, a perusal of the F.I.R. shows that the victim was in a romantic relationship with the Applicant since December 2022. Initially, she eloped with the Applicant in June 2023. Thereafter, again on 08.07.2023 she left her parents house and started residing with the Applicant. Thereafter, about 22 days later, both of them consumed poison at Ozarkhed Dam and both of them were initially hospitalised at the Civil Hospital, Vani, Nashik and thereafter at the

Civil Hospital, Nashik. The victim died on 31.07.2023. The present Applicant was in hospital since 30.07.2023. Initially, he was admitted in the Civil Hospital, Vani, Nashik and thereafter he was referred to the Civil Hospital, Nashik and he was discharged on 09.08.2023. Therefore, the Applicant was in hospital for about 11 months.

7. *Prima facie*, the victim voluntarily left her parents house. She voluntarily consumed poison. *Prima facie*, the victim was capable of understanding the consequences of her action.

8. In any case, the incident in question has taken place on or about 30.07.2023. The Applicant was apprehended on 09.08.2023. F.I.R. was registered on 09.08.2023. Charge-sheet was filed on 06.11.2023. Thus, investigation is completed. As per the Charge-sheet, the prosecution intends to examine about 17 witnesses. There is no progress in the trial and even charge is also not framed yet.

9. There are no antecedents.

10. The trial is likely to take a considerably long time.

11. Mr. Rokade, learned Counsel for the Applicant states that as most of the witnesses are from Taluka – Dindori, District – Nashik, the Applicant will not enter Taluka – Dindori, District – Nashik and will reside at Borale, Taluka – Chandwad, District – Nashik and will attend the Vadner Bhairav Police Station.

12. The Applicant does not appear to be at risk of flight.

13. Accordingly, the Applicant can be enlarged on bail by imposing conditions.

14. In view thereof, the following order:-

ORDER

(a) The Applicant - Rajendra Uttam Gangurde be released on bail in connection with C.R. No.348 of 2023 registered with the Vani Police Station, District – Nashik on his furnishing PR. Bond of Rs.25,000/- with one or two local solvent sureties in the like amount.

(b) The Applicant shall not enter the Taluka – Dindori, District – Nashik after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.

(c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.

(d) The Applicant shall report to the Vadner Bhairav Police Station-Nashik (Rural) once a week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Vadner Bhairav Police Station, Nashik (Rural) to communicate details thereof to the Investigating Officer.

(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 such

a person from disclosing the facts to the Court or to any Police personnel.

(f) The Applicant shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

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

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

15. The Bail Application is disposed of accordingly.

16. It is clarified that the observations made herein are *prima facie*, and the Trial Court shall decide the case on its merits, uninfluenced by the observations made in this order.

[MADHAV J. JAMDAR, J.]