



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.522 OF 2024**

Sameer Babya Janu Aakhade	...	Applicant
versus		
State of Maharashtra	...	Respondent

Mr. Sahil Choudhari i/by Ms. Pranothi Pawar, for Applicant.
Mr. S.R.Aagarkar, APP for State.
Mr. Sadashiv Sawant, PI, Kandivali Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 7 FEBRUARY 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.634 of 2023 registered with Kandivali Police Station for the offences punishable under Sections 376, 376(2)(n) of the Indian Penal Code, has preferred this application to enlarge him on bail.
3. The first informant is 27 years of age. She is estranged from her husband. She resides separately along with her two children. The first informant and the applicant were working with the same employer. The first informant was working as a maid and the applicant as a driver. Proximity developed. The first informant alleged that the applicant had forcible sexual intercourse with her by giving false promise of marriage, repetitively. Later on, the applicant started to avoid the first informant. It transpired that the applicant was in a relationship with another woman

as well. Eventually, the applicant resiled from the premises and declined to marry the first informant. Hence, the report.

4. Learned Counsel for the Applicant submitted that the relationship between the applicant and the first informant was consensual. The relationship lasted for a while. As they fell apart, the first informant had lodged the report.

5. Learned APP resisted the prayer for bail. Attention of the Court was invited to the allegations in the FIR and the statement of the first informant recorded under Section 164 of the Code of Criminal Procedure, 1973, in which the first informant had reiterated the allegations.

6. Prima facie, the relationship between the applicant and the first informant appeared to be consensual. Both were working at the same place. It seems, the applicant and the first informant turned astray. In any event, the situation in life of the applicant and the first informant, prima facie, appeared to be such that the question as to whether the consent for sexual intercourse was given under misconception of facts, would be a matter for adjudication at the trial. Investigation is complete and the chargesheet has been lodged. Further detention of the applicant seems unwarranted.

7. I am, therefore, inclined to exercise the discretion in favour of the applicant.

8. Hence, the following order :

ORDER

- (i) The Application stands allowed.
- (ii) The Applicant – Sameer Babya Janu Aakhade be released on bail in C.R.No.634 of 2023 registered with Kandivali 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 trial Court.
- (iii) The applicant shall mark his presence at Kandivali Police Station on first Monday of every month between 11 am to 1 pm for a period of two years or till the conclusion of the trial.
- (iv) The applicant shall not contact the first informant in any manner whatsoever and shall not tamper with the prosecution evidence. 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.
- (v) 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.
- (vi) The applicant shall regularly attend the proceedings before the jurisdictional Court.
- (vii) 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.)