

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

Bail Application No.526 of 2023

Santosh Shrirajkumar Yadav
Aged about 21 Years, adult Indian
Inhabitant, Occupation: Watchman,
R/ at address – 1. Gaon Khabino
Mahenas, Taluka- Benipur,
Dist.Darbhangha Bihar. 2. Rolex Shopping
centre, Station Road.
Goregaon (West), Mumbai
Presently lodge in – Thane Jail.

... Applicant.

Versus

The State of Maharashtra,
through Inspector In-charge,
Goregaon Police Station,
Vide CR Number 399/2018.
To be served through Public Prosecutor,
High Court Bombay, Mumbai

... Respondent.

None for the applicant.

Mr Arfan Sait, the Additional Public Prosecutor for
respondent/State.

Coram : R. N. Laddha, J.
Date : 24 April 2024.

P.C. :

Heard Mr Arfan Sait, the learned Additional Public
Prosecutor, appearing for the respondent/State.

2. The applicant in the present case, seeks bail in
connection with CR No.399 of 2018, registered at Goregoan
Police Station, Mumbai for the offences punishable under
Sections 376, 342, 506(2), and 323 of the Indian Penal Code

(‘IPC’). According to the prosecution, the victim is familiar with the applicant/ accused, who happens to be her friend. On 13 July 2018, the applicant contacted the victim and arranged a meeting at Goregoan railway station, and thereafter went to the applicant’s residence where the situation took a dark turn as the applicant demanded sexual favours from the victim. When she refused, the applicant physically assaulted her and even threatened her with harm to her father. Despite her resistance, the applicant demanded sexual favours and engaged in sexual intercourse. Subsequently, the victim narrated the incident to her mother and eventually reported the matter to the police, resulting into the registration of an offence.

3. The applicant/ accused claims, in his application, that the applicant and the victim have known each other for the past two years. Given their existing acquaintance, there appears to be no immediate threat to the victim. Furthermore, there are no visible injuries on the victim’s body. The ingredients of Section 376 of IPC are not attracted as the accused was not involved in any forceful violations. His bail applications filed on 11 November 2019 and 8 July 2021 were rejected due to the ongoing investigation and concerns about potential witness tampering.

4. Mr Arfan Sait, the learned APP appearing for the respondent/State, submits that the offence is serious. The victim has no motive to falsely implicate the applicant/accused in this crime. Additionally, the applicant previously applied for regular bail from the trial Court on two separate occasions, but both applications were rejected due to the serious nature of the allegations and tampering with the prosecution witnesses. The victim alleges that the applicant threatened her and engaged in sexual intercourse through coercion and subsequent blackmail. Overall, there is *prima facie* material suggesting the applicant's involvement in the commission of the crime.

5. This Court has examined the charge sheet and the accompanying documents. The applicant has been in jail since 15 July 2018. At the time of the incident, the applicant, who had no criminal antecedents, was only 20 years old, while the victim was approximately 19 years. It appears that the victim and the applicant were acquainted with each other. On 13 July 2018, the applicant contacted the victim, who expressed her willingness to accompany him. They traveled by rickshaw to Goregoan railway station, where the applicant asked the victim to come to his place and demanded sexual favours.

When she refused, he threatened her and engaged in physical relations. On that day, the victim later stayed with him. The spot panchanama indicates that the place where the applicant took the victim is a crowded location in proximity to the Goregoan railway station. The applicant and the victim knew each other for the past two years. There are no visible injuries or marks on the victim's body. Furthermore, the investigation is concluded and the charge sheet has already been filed. The prosecution's apprehension that the applicant may tamper with the prosecution evidence can be take care of by imposing appropriate conditions. Hence the following order:

(a) The applicant Santosh Shrirajkumar Yadav shall be released on bail in C.R. No.399 of 2018, registered at Goregoan Police Station, Mumbai, on furnishing a PR Bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

(b) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to any of the

prosecution witnesses.

(c) The applicant shall furnish the permanent address and contact details to the police inspector of the concerned police station and intimate the change, if any.

(d) The applicant shall regularly attend the proceedings before the trial Court.

6. The bail application stands allowed in the aforesaid terms. Needless to say, violating any of the conditions above will make the applicant liable for cancellation of bail.

7. It is made clear that the observations made herein are *prima facie*, and the trial court shall decide the case on its own merits in accordance with the law uninfluenced by the observations made in this order.

8. The registry to communicate this Order to the superintendent of the concerned jail.

9. All parties to act on an authenticated copy of this order.

[R. N. Laddha, J.]