



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1076 OF 2024**

Darshan Rajendra Paithankar

... Applicant

versus

The State of Maharashtra and Anr.

... Respondents

Mr. Keshav Chavan i/by Mr. D.H.Kumthekar, for Applicant.

Mrs. Ranjana D. Humane, APP for State.

Mr. A.S.Pawar, PSI, Khadakpada Police Station present

CORAM: N.J.JAMADAR, J.

DATE : 14 MARCH 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.506 of 2023 registered with Khadakpada Police Station for the offences punishable under Sections 376(2)(n) and 417 of the Indian Penal Code, 1860.
3. The first informant is a married lady with two children. In the month of March 2023, the first informant became acquainted with the applicant. They exchanged phone numbers. Thereafter, the first informant alleges, despite the first informant having apprised the applicant that her husband had passed away and she was not interested in romantic relationship, the applicant induced her to have a relationship with him by repetitively making promises of marriage. The applicant had allegedly taken the first informant to meet his mother and sister. The applicant had forcible sexual intercourse with the first informant when she had been to the

applicant's place. Thereafter, the applicant allegedly sexually exploited the first informant repetitively during the period March 2023 to September 2023. Since the month of September 2023, the applicant started to distance himself and, eventually, refused to solemnize the marriage on the pretext that their horoscopes did not match. Hence, the report.

4. Learned Counsel for the Applicant submitted that the applicant and the first informant were in a relationship for a long period. The physical relations between the applicant and the first informant were consensual. Attention of the Court was invited to the transcript of the whatsapp conversation exchanged between the parties.

5. In opposition to this, learned APP resisted the prayer for bail. It was submitted that the applicant had induced the first informant to give consent for the consensual intercourse by making a false promise of marriage. In totality of the circumstances, the offence of rape can be said to have been prima facie made out, urged learned APP.

6. I have perused the allegations in the FIR and the material on record. The first informant is in her thirties with two grown up children. It appears that the applicant and the first informant were in a relationship. The allegations in the FIR indicate that there were incidents of sexual exploitation over a period of time. The transcript of the whatsapp conversation indicates that the applicant and the first informant were in a deep relationship.

7. Prima facie, the relationship appears to be consensual. In the circumstances, having regard to the situation in the life of the parties, whether the consent of the first informant for sexual intercourse was vitiated by misconception of facts would be a matter for adjudication at the trial.

8. Investigation is complete. Chargesheet has been lodged. The applicant appears to have roots in society. Further detention of the applicant does not seem to be warranted. I am, therefore, inclined to exercise the discretion in favour of the applicant.

9. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Darshan Rajendra Paithankar be released on bail in C.R.No.506 of 2023 registered with Khadakpada 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 Khadakpada Police Station on first Monday of every alternate month between 11 am to 1 pm for a period of three years or till the conclusion of the trial, whichever is earlier.

(iv) The applicant 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.

(N.J.JAMADAR, J.)