



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1291 OF 2024**

Balkrishna Digambar Thakur

... Applicant

versus

The State of Maharashtra and Ors.

... Respondents

Dr. Abhinav Chandrachud i/by Mr. Vivek Gupta, for Applicant.

Mr. Tanveer Khan, APP for Respondent Nos.1 and 2.

Mr. Karan R. Kadam, Advocate appointed through legal aid for Respondent No.3.

Psi Jagdish More, Andheri Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 24 APRIL 2024

P.C.

1. Heard the learned Counsel for the parties.

2. The applicant, who is arraigned in C.R.No.648 of 2023 registered with Andheri Police Station for the offences punishable under Sections 376 and 354D of the Indian Penal Code, has preferred this application to enlarge him on bail.

3. The first informant (Respondent No.3), a 40 year old married lady, is an Architect. She became acquainted with the applicant, a 59 year old person, who also claimed to be an architect, as they were in the same profession. Often the applicant used to assign architectural designing work to the first informant.

4. In the month of March / April 2022, the applicant had called the first informant to a project in Andheri. The first informant avoided to visit the said site on one or other other pretext for about 10 months. On 22 January 2023, the applicant,

however, compelled the first informant to visit the said site. The applicant allegedly took the first informant to the flat which was designed by the applicant. The first informant alleged, after taking the applicant to the bedroom, the applicant sexually exploited the first informant. In the meanwhile, as the doorbell rang, the applicant asked the first informant to hurriedly dress herself up. As the first informant was scared, she did not disclose the incident immediately to anybody. In the month of February 2023, she narrated the incident to her husband. However, the latter asked her to concentrate on her work. Eventually, the first informant lodged a report on 22 December 2023.

5. Dr. Chandrachud, the learned Counsel for the applicant, submitted that there is material on record to indicate that the applicant and the first informant were in a relationship. Attention of the Court was invited to the transcript of the whatsapp conversation between the applicant and the first informant, which indicates that the relationship transcended professional matters and the first informant had proclaimed love for the applicant. It was submitted that there are whatsapp chats between the applicant and the first informant, even after the date of the alleged occurrence, wherein, there is no reference to the alleged act of exploitation by the applicant, even remotely. On the contrary, the applicant had scolded the first informant for being remiss in her professional duties. As disputes arose, the applicant came to be falsely roped in.

6. Mr. Khan, learned APP resisted the prayer for bail. Inviting attention of the Court to the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, before the learned Magistrate, learned APP submitted that the first informant has reiterated the allegations against the applicant. At this stage, there is no reason to disbelieve the version of the first informant.

7. Mr. Kadam, learned Counsel appointed to espouse the cause of the Respondent No.3, submitted that there is material to show that the applicant was not a qualified Architect. The applicant had induced the first informant to enter into relationship by making a false representation. It was submitted that even if it is assumed that the first informant was in a relationship with the applicant in the past, that does not give licence to the applicant to sexually exploit the first informant. As the first informant categorically states that she was sexually exploited, at this stage, her version commands primacy, urged Mr. Kadam.

8. I have given careful consideration to the rival submissions. Evidently, the first informant is a grown up lady with two children. The applicant and the first informant became acquainted in the year 2013. Though, in the FIR, the first informant has alleged that the first informant was avoiding to meet the applicant, yet the transcript of the whatsapp conversation between the applicant and the first informant indicates that the applicant and the first informant were in constant touch with each other. At this stage, it may not be appropriate to delve deep into the import

of the conversation between the applicant and the first informant. Suffice to note that the relationship transcended professional aspects, and there is prima facie material which suggests romantic relationship.

9. It is in this context, the aspect of delay in lodging report is required to be appreciated. The alleged incident of sexual exploitation occurred on 22 January 2023. Report came to be lodged on 22 December 2023, after about 11 months. The first informant claimed that after the incident, she was extremely scared and did not report the matter to anybody immediately, and apprised her husband about the said incident in the month of February 2023. On the contrary, the husband of the first informant states that on 24 January 2023 itself, the first informant apprised her about the alleged act of exploitation by the applicant. However, as their younger child was unwell, they did not report the matter.

10. The veracity of these explanations, in the circumstances of the case, would be a matter for adjudication at the trial. In the backdrop of the prima facie material to show that the applicant and the first informant were in a relationship and there is a considerable delay in lodging the FIR, a prima facie case for exercise of discretion is made out.

11. Investigation is complete and the chargesheet has been lodged. The applicant appears to have roots in society. The possibility of fleeing away from justice seems to be remote. The apprehension on the part of the prosecution regarding

tampering with evidence and threatening the first informant and the witnesses can be taken care of by imposing conditions.

10. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Balkrishna Digambar Thakur be released on bail in C.R.No.648 of 2023 registered with Andheri 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 before Andheri 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 contact the first informant and any of the relatives of the first informant, for any purpose and in any manner whatsoever. 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.

Application disposed.

(N.J.JAMADAR, J.)