



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1653 OF 2024**

Michael Bristo Anthony Nadar	...	Applicant
versus		
The State of Maharashtra	...	Respondent

Mr. Abhishek Kulkarni with Mr. Sagar Wakale, for Applicant.
Mr. Prashant Jadhav, APP for State.
API Abhinay Pawar, Malad Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 19 APRIL 2024

P.C.

1. Heard the learned Counsel for the parties.
2. This is an application for bail in connection with C.R.No.828 of 2023 registered with Malad Police Station for the offences punishable under Sections 376(2) (n), 323, 504 of the Indian Penal Code.
3. The first informant, a 26 year old lady, became acquainted with the applicant in the year 2016. Proximity developed between the first informant and the applicant. The first informant alleged, that the applicant had sexual intercourse with the first informant in the month of October 2016 by giving her a promise of marriage. Relationship continued till February 2023. Family members of the first informant and the applicant also gave consent for their marriage. However, in the month of December 2023, after the applicant returned from his native place, the applicant refused to solemnize the marriage with her and blocked the mobile number of the first

informant. Hence, the first informant lodged report. In the FIR, it was alleged that the applicant assaulted the first informant and, in the month of November 2023, she had suffered a mis-carriage.

4. Learned Counsel for the Applicant submitted that the allegations in the FIR indicate that the applicant and the first informant were in a relationship for over seven years. As the relationship turned sour, the first informant lodged the report.

5. Learned APP resisted the prayer for bail. An endeavour was made to urge that the prosecution may add charge for the offences punishable under Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012, as it appeared that the victim was minor when the first incident of sexual offence occurred. It was further submitted that the applicant had repetitively exploited the victim by giving a promise of marriage. Therefore, the applicant does not deserve to be enlarged on bail.

6. I have perused the allegations in the FIR. Evidently, the applicant and the first informant became acquainted in the year 2016 and the relationship developed. The first informant does not allege in the FIR that the physical relations between the applicant and the first informant were without her consent. The tenor of the FIR is that the consent of the victim for sexual intercourse was obtained by giving false promise of marriage. It is imperative to note that the relationship lasted for more than six years. From the own showing of the first informant, there was a physical relationship between the first informant and the applicant during those six years.

Prima facie, in these circumstances, it would be difficult to draw an inference that the consent of the victim was vitiated by misconception of facts. In any event, that would be a matter for adjudication at the trial.

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

8. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Michael Bristo Anthony Nadar be released on bail in C.R.No.828 of 2023 registered with Malad 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 Malad 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.

Application disposed.

(N.J.JAMADAR, J.)