

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 2103 OF 2024

Aazad Riyajuddin Ansari	...Applicant
vs.	
The State of Maharashtra	...Respondent

Mr. Kuldeep Patil, i/b, Rohin R. Chauhan, for the Applicant.
Ms. Gauri Rao, APP, for the Respondent-State.

CORAM : N. J. JAMADAR, J.

DATE : 10th May, 2024

P.C.:

1. Heard learned Counsel for the applicant and learned APP for the State.
2. Leave to amend.
3. This is an application for bail in C. R. No. 4 of 2024 registered with Aarey police station, Mumbai for the offences punishable under Section 376, 376(2)(n) of the Indian Penal Code, 1860 (the Penal Code).
4. The first informant is a 25 year old lady. She is a native of Uttar Pradesh. In the month of July, 2022, she along with her three children and husband had come to Mumbai in search of livelihood. She become acquainted with the applicant. She returned to Uttar Pradesh as her husband had left Mumbai along with their elder son. In the month of April 2023, the first informant again returned to Mumbai alone and started to work as a cook.

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5. On 22nd April, 2023 the applicant had allegedly called to his house and sexually exploited her by making a promise of marriage. From April, 2023 till January 2024, the applicant allegedly sexually exploited the first informant by giving promise of marriage. On 12th January, 2024 when the first informant asked the applicant about marriage, he abused and insulted her. Thereafter, the first informant lodged the report.

6. Mr Patil, the learned Counsel for the applicant, submitted that the first informant has three children. Her marriage is subsisting. There was relationship outside marriage between the applicant and the first informant. As the relationship turned sour, the applicant has been falsely implicated.

7. The learned APP resisted the prayer for bail. It was submitted that the statements of witnesses indicate that the applicant had been committing offences using force and violence. If the applicant is released on bail, there is a possibility of threatening the first informant and her relatives.

8. Prima faice, from the perusal of the allegations in the FIR and the statements of the witnesses, it becomes evident that the relationship appeared to be consensual. The first informant's marriage, as evident, was still subsisting. The first informant returned to Mumbai in the month of April 2023 alone, keeping her

children at her native place. In such circumstances, prima facie it does not appear that the first informant gave consent for the sexual intercourse, under misconception of facts.

9. In any event, the investigation is complete. The applicant has been in a custody since 15th January 2024. Further detention of the applicant does not seem warranted. The apprehension on the part of the prosecution can be taken care of by imposing conditions.

10. Hence the following order:

Order

- (i) The application stands allowed.
- (ii) The applicant be released on bail in C. R. No. 4 of 2024 registered with Aarey police station, Mumbai punishable under Section 376, 376(2)(n) of the Indian Penal Code, 1860, on furnishing a P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount, to the satisfaction of the learned trial Court.
- (iii) The applicant shall mark his presence at Aarey Police Station on the first Monday of every month between 10.00 am to 12.00 noon for a period of

two years or till conclusion of trial, whichever is earlier.

(iv) The applicant shall not enter the limits of Aarey Colony, Goregaon (east) Mumbai except for the purpose of marking his presence at the police Station.

(iv) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant and any of the persons acquainted with the facts of the case.

(v) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the co-accused and the trial court shall not be influenced by any of the observations made hereinabove.

(vi) Application stands disposed of.

(N. J. JAMADAR, J.)