



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3216 OF 2023**

Santosh Gopal Chandoskar

... Applicant

versus

The State of Maharashtra

... Respondent

Mr. Tohid Shaikh i/by Ms. Anjali Patil, for Applicant.

Mrs. Ranjana Humane, APP for State.

Sr.PI Rajesh R. Shinde, PSI Prakash C. Kamble, Vakola Police Station present.

CORAM: N.J.JAMADAR, J.

DATE : 3 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.1145 of 2022 registered with Vakola Police Station for the offences punishable under Sections 376, 376(2)(f), 504 and 506 of the Indian Penal Code.
3. The first informant is the wife of the nephew of the applicant. Her husband was incarcerated in prison in connection with a prosecution for theft. The first informant and the applicant were residing in a room which is in the name of the applicant. On 24 September 2022, when the first informant had demanded some money from the applicant, the latter had told her that she had to do something in return. On 25 September 2022, while the first informant was feeding her child, the applicant allegedly demanded sexual favour and when the first informant refused, the applicant assaulted the first informant and, thereafter, had a forcible sexual intercourse

with her. The applicant threatened the first informant that she would be ousted from his house, if she disclosed the incident.

4. On 18 October 2022, the applicant again attempted to sexually exploit the first informant. An altercation ensued between the first informant and the applicant. Eventually, the first informant went to the place where his husband was working and narrated the incident to him. Thereupon, the first informant mustered courage and lodged the report.

5. Learned Counsel for the Applicant submitted that there were disputes between the applicant and the first informant over the proprietary and possessory title over the room which they were occupying. There is a delay in reporting the matter as the first incident had allegedly occurred on 25 September 2022. There is no medical evidence which corroborates the version of the first informant. The neighbours of the first informant have reported that there were frequent quarrels between the applicant and the first informant. Therefore, having regard to the relationship between the parties and the age of the applicant, the applicant deserves to be enlarged on bail.

6. Learned APP resisted the prayer for bail. It was submitted that the first informant had made clear and categorical allegations of sexual exploitation at the hands of the applicant. The statement of the husband of the first informant lends support to the claim of the applicant. Therefore, the applicant does not deserve to be enlarged on bail.

7. The Investigating Officer was directed to place copy of the medico-legal examination report of the first informant. It appears that the first informant was taken to Cooper Hospital on 25 October 2022. Though, it appears that the victim had narrated the history of sexual assault, yet the victim had shown her unwillingness for medico legal examination and, therefore, the medico legal examination could not be conducted.

8. From the perusal of the allegations in the FIR, it appears that there were two incidents of the alleged sexual exploitation, first on 25 September 2022 and the second on 18 October 2022. The first informant alleged that on 25 September 2022, the applicant had a forcible sexual intercourse with the first informant. FIR further indicates that after the alleged incident, the first informant came out of the room crying and when inquired by the neighbours, she disclosed that there was a quarrel between the applicant and the first informant over the first informant not feeding the child. The statements of the neighbours indicate that the applicant and the first informant were residing together while the husband of the first informant was incarcerated in prison and there were frequent quarrels between the applicant and the first informant.

9. Evidently, the first informant had opportunities to disclose the acts of sexual exploitation at the hands of the applicant. The material on record, prima facie, indicates that the relationship between the applicant and the first informant was

strained, though they were residing under one roof. The witnesses have stated that there were frequent quarrels between the applicant and the first informant.

10. In the circumstances, the material which corroborates the first informant's version may become relevant. It must be noted that though the first informant claimed that she had narrated the first incident to her husband on 18 October 2022 itself, yet the statement of the husband of the first informant appears to have been recorded in the month of November 2022. The statement, thus, loses the element of spontaneity which would have corroborated the version of the first informant. What weight is to be given to the reluctance on the part of the first informant for medico legal examination, would be a matter for adjudication at the trial. As the relationship between the parties appeared to be fractious and there is prima facie no material which lends support to the claim of the first informant, a prima facie case for exercise of discretion can be said to have been made out.

11. I am, therefore, inclined to release the accused on bail.

12. Hence, the following order :

ORDER

(i) The Application stands allowed.

(ii) The Applicant – Santosh Gopal Chandoskar be released on bail in C.R.No.1145 of 2022 registered with Vakola Padgha 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 Vakola Police Station on first Monday of every alternate month in 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.)

SSP

5/5