

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.4132 OF 2023

Ashish Maruti Dhanke

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Kuldeep U. Nikam, Advocate for the Applicant.

Ms. Anamika Malhotra, APP, for the Respondent-State.

Mr. Nagesh S. Khedkar, Advocate for Respondent No.2.

CORAM : MADHAV J. JAMDAR, J.

DATED : JANUARY 18, 2024

P.C.:

1. Heard Mr. Nikam, learned Counsel appearing for the Applicant, Ms. Malhotra, learned APP for the Respondent-State and Mr. Khedkar, learned Counsel appearing for Respondent No.2.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973*. The relevant details are as follows:-

1	C. R. No.	1579 of 2022
2	Date of Registration of F.I.R.	14/12/2022
3	Name of Police Station	Hadapsar Police Station, District-Pune
4	Section/s invoked	Sections 307, 450, 323, 354, 354(D), 506(2) of the

		<i>Indian Penal Code, 1860, Sections 8 & 12 of the POCSO Act, Sections 37 & 135 of the Maharashtra Police Act, 1951, Sections 4 & 25 of the Arms Act, 1959 and Sections 3 & 7 of the Criminal Law (Amendment) Act, 2013.</i>
5	Date of Incident	October 2022 to 13/12/2022
6	Date of Arrest	18/05/2023
7	Date of filing Charge-sheet	07/02/2023

3. As per the prosecution case, the Applicant was approaching the victim on several occasions expressing his feelings for her. The Applicant forcefully entered the house of the victim on 13th December 2022 and threatened her with a sickle. The victim is aged 17 years.

4. A learned Single Judge by Order dated 22nd December 2023, issued notice to the Respondent No. 2 - Victim and accordingly, Advocate Mr. Nagesh Khedkar, is appearing for the Respondent No.2.

5. It is the contention of Mr. Nikam, learned Counsel appearing for the Applicant that the Applicant is aged 24 years and the incident has not occurred in the manner which is described and set out in the F.I.R.. He submitted that as far as the content of the

F.I.R. concerning assault is concerned, the same is totally false. He submitted that there are no independent witnesses to the said assault in question and there was no recovery as well as no injury. He further submitted that in fact, the Respondent No.2 - Victim filed a *pursis* before the learned Trial Court giving her consent for granting bail to the Accused-Applicant.

6. Mr. Khedkar, learned Counsel appearing for the Respondent No.2 confirms that the *pursis* is filed in the learned Trial Court giving consent to grant of bail. He further states that even presently, his instructions are to give consent for granting bail to the Applicant.

7. Ms. Malhotra, learned APP opposes the Bail Application. She states that the offence is of a serious nature and that the same is punishable under Sections 8 and 12 of the *Protection of Children from Sexual Offences Act, 2012*.

8. However, in this case, the Charge-sheet has been filed on 7th February 2023 under Section 299 of the *Code of Criminal Procedure, 1973* in the absence of the Applicant.

9. It is the contention of Mr. Nikam, learned Counsel appearing for the Applicant that there was another case under the provisions of the *Maharashtra Prevention of Dangerous Activities of Slumlords, Bootleggers, Drug-offenders, Dangerous Persons, Video Pirates, Sand Smugglers and Persons Engaged in Black-*

Marketing of Essential Commodities Act, 1981 (“MPDA”) and ultimately by Order dated 27th September 2023 passed by a Division Bench of this Court in Criminal Writ Petition No. 2466 of 2023 the said proceeding has been quashed. He submitted that the Applicant was not absconding, however, as he was required to attend the said MPDA case therefore, he was not available and ultimately was arrested on 18th May 2023.

10. The Applicant is under incarceration for about 7 months. Neither are there any injuries on the body of the victim nor is there any recovery at the instance of the Applicant.

11. The Charge-sheet has been filed on 7th February 2023. There are 15 witnesses as per the Charge-sheet. The trial is unlikely to conclude any time soon and is likely to take a considerably long time. The Applicant does not have any criminal antecedents.

12. Mr. Nikam, learned Counsel appearing for the Applicant states that as several witnesses are residing in Pune District, the Applicant will therefore not reside within District-Pune and that the Applicant will reside at his parent's residence at Sangavi, Sarola, Sangavi Mardi, District-Dharashiv (formerly Osmanabad), Maharashtra-413623.

13. The Applicant does not appear to be at 'flight risk'.

14. Accordingly, the Applicant can be enlarged on bail by

imposing conditions. In view thereof, the following order:-

ORDER

- (a) The Applicant-Ashish Maruti Dhanke be released on bail in connection with C.R. No.1579 of 2022 registered with the Hadapsar Police Station, District-Pune on his furnishing P. R. Bond of Rs.25000/- with one or two solvent sureties in the like amount.
- (b) The Applicant shall not enter the Pune District after being released on bail, except for reporting to the Investigating Officer, if called and for attending the trial.
- (c) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Investigating Officer while residing outside Pune District and shall keep the same updated, in case there is any change.
- (d) The Applicant shall report to the Tuljapur Police Station, Taluka-Tuljapur, District-Dharashiv (Osmanabad) once every week, on every Sunday between 11.00 a.m. and 1.00 p.m. till the conclusion of the trial. The Police Inspector of Tuljapur Police Station, Taluka - Tuljapur, District-Dharashiv (formerly Osmanabad) to communicate details thereof to the Investigating Officer.
- (e) 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 such a person from disclosing the facts to the Court or to any Police personnel.
- (f) The Applicant shall not tamper with the evidence and shall not contact or influence the complainant or any

witnesses in any manner.

- (g) The Applicant shall attend the trial regularly. The Applicant shall co-operate with the Trial Court and shall not seek unnecessary adjournments thereat.
- (h) The Applicant shall surrender his passport, if any, to the Investigating Officer.

15. The Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]