



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 298 OF 2024

Suraj Harinarayan Sharma

...Applicant

vs.

The State of Maharashtra

...Respondent

Anjali Patil	Advocate for the Applicant
Mr. H. J. Dedhia	APP for the Respondent-State
WPSI Madhuri Gaikwad	Rabale MIDC Police Station

CORAM : S. M. MODAK, J.

DATE : 04th JULY 2024

P. C. :-

1. Heard learned Advocate Ms. Anjali Patil for the Applicant and learned APP for the Respondent-State.
2. There is F.I.R. registered at Rabale MIDC Railway Police Station on 22/02/2020 at the instance of the victim. It is in respect of the two incidents about sexual intercourse. They took place on 19/02/2020. One is at Bus depo near Ghansoli highway at about 23.30 hours and another incident in a bushes near pipeline on road going to railway station. In the first incident, one culprit is involved. Samadhan is accused involved in the first incident. Whereas in the second incident,

two culprits are involved. They are accused Rahul and present Applicant-Suraj.

3. Samadhan is already granted bail on 15/03/2023. Whereas bail for accused-Rahul is rejected. This Applicant has withdrawn his bail application on 29/11/2021. This is a second bail application. It is filed on account of granting of bail to Samadhan and lapse of 4 years after the arrest and trial is not started. The Applicant cannot get the benefit of grant of bail to Samadhan because the incidents are different and material are different.

4. However, I am inclined to grant bail, for the reason that the trial is not started.

5. Learned APP has taken me through her Supplementary statement recorded on 23/02/2020 and her statement dated 05/03/2020. The later statement is in respect of identification of the auto rickshaw and activa scooter. They are parked at the Police Station. This activa scooter was used by the present Applicant and Rahul to take the victim to the spot of the incident. The prosecution claims that this activa was seized, when the Applicant and Rahul came be arrested on 23/02/2020. I have perused the panchnama, it is on page no. 71.

Exactly from whom, it is seized is not mentioned. This Activa is subject matter of offence of theft registered at Turbhe MIDC Police Station bearing no. 333 of 2019 under Section 379 of the Indian Penal Code. The statement of the owner of the Activa is on page no.44.

6. It is true that the prosecution relies upon the recording of the events on CCTV camera. It is on page nos. 89 to 91. According to learned APP, activa is being shown in those footages. Furthermore, the victim is also shown in those footages. One beggar is also shown alongwith victim. The prosecution does not claim that the present Applicant is also being seen in those footages. Furthermore, the prosecution does not claim that the victim has stated about moving to various places on that Activa.

7. Considering all the circumstances, I think the Applicant can be granted bail. Hence, the Order:-

ORDER

(i) The Bail application is allowed.

(ii) Applicant-Suraj Harinarayan Sharma arrested in connection with C.R. No. 56 of 2020 registered with Rabale MIDC Police Station for the offence punishable under Sections 341, 392, 376

and 376-D of the Indian Penal Code, be released on bail on furnishing Personal bond and surety bond in sum of Rs. 50,000/-.

(iii) Let surety having place of residence in Thane District be furnished.

(iv) The Applicant shall not threaten the prosecution witness.

(v) The Applicant shall regularly attend the proceedings before the trial Court.

(vi) Applicant is directed to give attendance to the Rabale MIDC Police Station on first Monday of August and January from 10.00 a.m. to 12.00 noon till completion of the trial.

(vii) Needless to say, violating of the condition above will make the Applicant liable for cancellation of bail after notice.

8. It is made clear that these are my *prima facie* observations and the trial Court shall decide the case on its own merits without influenced by the observations made in this order.

9. Application is disposed of in the aforesaid terms.

10. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]