

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 356 OF 2024**

Govind Lalmani Rajbhar ... Applicant
vs.
The State of Maharashtra and another ... Respondents

Mr. Balwant Salunkhe, i/b. Juglesh Pandey for applicant.

Ms. Rutuja A. Ambekar, APP for respondent No.1-State.

CORAM : MANISH PITALE, J.

DATE : 25th JUNE, 2024

P.C. :

. Heard learned counsel for the applicant and the learned APP for the respondent No.1-State.

2. By this application, the applicant is seeking bail in connection with FIR No.0353 of 2021 dated 19.10.2021 registered at Police Station Kasarvadavli, District Thane for offences under Sections 377, 354, 420, 323, 504 and 506 of the Indian Penal Code, 1860 (IPC).

3. The applicant was arrested on 20.10.2021 and he has already suffered incarceration for a period of about two years and eight months.

4. The learned counsel for the applicant submits that the informant (victim) has lodged the said FIR against the applicant as a counterblast to an earlier FIR dated 31.08.2021 registered against the informant and other co-accused persons at the behest of the applicant. Attention of this Court is invited to the said FIR registered at Police Station Wagale Estate, District Thane City, wherein the informant in the present case, is arraigned as accused No.1 alongwith two other accused persons. It is the case of the

applicant that he and the informant were in a relationship from the year 2019 and due to the fact that he was in love with the informant, the applicant had given her amount of about ₹ 40 lakhs for construction of house at her village. The applicant claims that when he started asking for return of money, the informant alongwith the co-accused persons, assaulted him on 30.08.2021, due to which the said FIR was registered at the behest of the applicant. Reference is also made to certain medical papers showing the injuries suffered by the applicant due to the said incident.

5. It is claimed that as an after-thought and as a counterblast, the informant caused registration of the subject FIR, which was initially filed at Police Station Shreenagar and thereafter, registered at Police Station Kasarvadavli, District Thane on 19.10.2021. It is submitted that the statement of the informant, leading to registration of FIR, refers to the incidents which allegedly took place as far back as in February 2019. It is alleged that the incidents are imaginary, only to harass the applicant and to ensure that serious offences are registered against him, resulting in his arrest and continued incarceration. It is submitted that since the applicant has already undergone two years and eight months of incarceration and there is not even a *prima facie* case against him, this Court may consider allowing the present application, as the applicant is ready to abide by all the conditions that this Court may consider imposing.

6. On the other hand, the learned APP submitted that the statement of the informant states in graphic detail as to the manner in which the applicant, not only physically and mentally abused the informant, but he also threatened to circulate the videos of the sister of the informant and by using such tactics, he forced himself upon the informant. The learned APP

submitted that the applicant has abused the informant physically and mentally and if released on bail, the informant would be further harassed and it would have negative impact on the prosecution case. Reference was also made to the statements of certain witnesses, which corroborated with the version of the informant, although in response, the learned counsel for the applicant submitted that some of the said witnesses are co-accused persons alongwith the informant in the FIR lodged at the behest of the applicant. The learned APP informs this Court that out of the four accused persons, two are still absconding and this factor may be taken into consideration while deciding the present application.

7. This Court has considered the material on record with the assistance of the learned counsel for the applicant and the learned APP for the State. Undoubtedly, serious allegations are made by the informant against the applicant, leading to registration of FIR for serious offences. A perusal of the statement of the informant shows that the FIR was lodged at her behest in October 2021, while the incidents described by her, date back to February 2019. In the chronology of events narrated by the informant, at various places, serious allegations of physical and mental abuse have been levelled against the applicant.

8. But, it is significant to note that the applicant had caused the aforesaid FIR dated 31.08.2021 to be registered against the informant and co-accused persons for offences under Section 326 and 506 read with 34 of the IPC. This FIR is certainly prior in point of time and it is also significant to note that the chronology of events narrated by the informant also terminates on 30.08.2021. *Prima facie*, this Court finds that there is substance in the contention raised on behalf of the applicant that if the grievance of the

informant related to incidents that allegedly took place between February 2019 to 30.08.2021, the informant could have approached the police immediately thereafter. Instead, the informant caused the subject FIR to be registered on 18/19.10.2021. This gives credence to the contention raised on behalf of the applicant that the subject FIR appears to be an after-thought and a counterblast to the FIR registered at the behest of the applicant on 31.08.2021.

9. It is often noticed that in cases where the relationship between two adult individuals is spoiled, there is a tendency to drag the other person into litigation and to allege serious misdeeds in the backdrop of such spoiling of relation. At this stage, it would not be appropriate to comment on the said aspect any further, except for observing that in such cases, there is a tendency to exaggerate on the part of the aggrieved persons. The extent of physical and mental abuse, including the allegation of gang rape pertaining to January 2020, ought to have resulted in the informant making grievance within a reasonable period of time. The allegation pertaining to gang rape is of January 2020 and the subject FIR was registered on 18/19.10.2021. The learned APP was quick to point out that according to the informant, the applicant was consistently threatening misusing certain videos of the applicant and her sister due to which she was constrained not to approach the police. But, at this stage, this Court has derived a *prima facie* impression that after the relationship between the applicant and the informant took a turn for the worse, the informant chose to approach the police and a tendency towards exaggeration can be noticed.

10. Apart from this, it is found that some of the witnesses, who have given statements to corroborate the allegations of the informant, are the very

persons, who are co-accused persons with her in the FIR registered at the behest of the applicant on 31.08.2021. There are indeed statements of some others from the village of the informant, which tend to corroborate her version. But, such material has to be appreciated in the backdrop of the fact that the applicant had approached the police on 31.08.2021 leading to registration of FIR against the informant and the co-accused persons.

11. The applicant was arrested on 20.10.2021 and he has remained behind bars since then. The investigation is completed, chargesheet is already on record and the mobile of the applicant was also seized during the course of investigation.

12. The possibility of the trial being completed within a reasonable period of time appears to be remote and in such circumstances, this Court is inclined to allow the present application.

13. At the same time, the genuine concern of the learned APP about the possibility of the applicant misusing the liberty and threatening the informant, cannot be ignored. For that purpose, appropriate conditions are required to be imposed upon the applicant.

14. In view of the above, the application is allowed in the following terms:
(i) The applicant shall be released on bail in connection with FIR No.0353 of 2021 dated 19.10.2021 registered at Police Station Kasarvadavli, District Thane for offences under Sections 377, 354, 420, 323, 504 and 506 of the IPC, on furnishing PR Bond of ₹ 50,000/- (Rupees Fifty Thousand only) and one or two sureties in the like amount to the satisfaction of the trial Court;

- (ii) the applicant shall not enter Thane District during the pendency of the trial, except for attending the proceedings before the Court in Thane;
- (iii) upon release, within one week, the applicant shall inform the Investigating Officer as well as the trial court about his contact number and residential address and update the same in case of any change;
- (iv) the applicant shall report to Police Station Tulinj, Nallasopara, District Palghar, on every second and fourth Monday of every month between 10:00 a.m. and 12:00 noon during the pendency of the trial;
- (v) the applicant shall co-operate with the trial Court and attend the proceedings before the trial Court on each and every date, unless specifically exempted;
- (vi) the applicant shall not, in any manner, contact the informant and the witnesses or any other persons concerned with the present case;
- (vii) the applicant shall not tamper with the evidence of the prosecution in any manner. He shall not undertake any action that may influence the informant, witnesses and other persons concerned with the case.

15. The applicant shall be liable to face proceedings for cancellation of bail, in the event any of the aforesaid conditions are violated.

16. It is also clarified that the observations made in this order are limited to the disposal of the present bail application and the trial court shall proceed further in the matter without being influenced by the observations made hereinabove.

17. The application is disposed of.

(MANISH PITALE, J)