



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.2488 OF 2024**

Sahil Amin Shaikh ... Applicant
versus
The State of Maharashtra and Anr. ... Respondents

Mr. Priyal Sarda with Mr. Shubham Sane, Mr. Ranesh Ranglani, Ms. Seema Dighe i/by Mr. Rupesh Zade, for Applicant.

Mr. A.A.Naik, APPfor State.

Mr. Nikhil M. Pawar, appointed Advocate for Respondent No.2.

CORAM: N.J.JAMADAR, J.

DATE : 19 DECEMBER 2024

P.C.

1. Heard the learned Counsel for the parties.
2. The applicant, who is arraigned in C.R.No.750 of 2023 registered with Bhigwan Police Station for the offences punishable under Sections 376(2)(n), 354-C, 506 read with Section 34 of the Indian Penal Code, 1860 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 along with the co-accused, has preferred this application to enlarge him on bail.
3. In the year 2019, the first informant, while pursuing education, was also working as part time sales girl. The Applicant (A2) had sent objectionable video of the first informant to her and started to harass and blackmail her. The applicant threatened to upload the video on social media and make it viral. At the same time, Aakash (A1) also stalked the first informant. With a view to get

herself extricated from the clutches of the applicant, the first informant narrated the harassment, she was subjected to by the applicant, to Aakash (A1). The first informant alleged, Aakash (A1) on the pretext of solving the problem the first informant was facing, called her to meet him and by showing her the same video, which the applicant had shared, sexually exploited her. The applicant had allegedly shared the objectionable video of the first informant with Aakash (A1) for monetary consideration. The Applicant and Aakash (A1) joined hands, and, thereafter, the applicant and Aakash (A1) sexually exploited her, repetitively. It is, inter alia, alleged that the applicant and Aakash (A1) repetitively exploited her at Neha Lodge, Baramati. Eventually, the first informant lodged the report.

4. Mr. Sarda, learned Counsel for the Applicant, submitted that there is no material to corroborate the version of the first informant. There is an inordinate delay in lodging the FIR. The prosecution version that the applicant had sexually exploited the first informant by threatening to make objectionable video viral, is not borne out by the material on record as the mobile phone which was allegedly recovered from the possession of the applicant was that of the first informant.

5. Taking the Court through the description of the property seized during the course of investigation and the statement of the first informant that the applicant had snatched the mobile phone handset from her, Mr. Sarda

submitted that there is not a shred of material to connect the applicant with the alleged offences. It was further submitted that the applicant has been in custody since 10 November 2023 and since the co-accused Aakash (A1) has been absconding, there is no possibility of expeditious conclusion of the trial. Therefore, the applicant be enlarged on bail.

6. Mr. Naik, learned APP, resisted the prayer for bail. It was submitted that at the time of the alleged occurrence, the victim – Respondent No.2 was a child. The material on record indicates that the victim has been systemically exploited by the applicant and Aakash (A1) by blackmailing her. The submission on behalf of the applicant that there is no corroboration to the version of the victim does not merit acceptance as the victim's statement does not require corroboration. It was submitted that the mobile phone handset which was seized from the possession of the applicant has been forwarded to FSL for analysis. Therefore, having regard to the grave nature of the accusation, the applicant does not deserve to be enlarged on bail, urged Mr. Naik.

7. Learned Counsel appointed to espouse the cause of Respondent No.2 also resisted the prayer for bail. It was submitted that the applicant and co-accused have repetitively sexually exploited the victim – first informant. After the FIR was lodged, the relatives of the co-accused and the applicant have threatened the first informant with dire consequences, if she pursues the

prosecution. The first informant has, thus, lodged NC report against the relatives of the applicant as well as co-accused. Since the co-accused is absconding and there is an imminent threat of tampering with evidence witnesses, the application be rejected, urged learned Counsel for Respondent No.2.

8. I have carefully perused the material on record. From the perusal of the allegations in the FIR, it appears that the incident of exploitation allegedly commenced in the year 2019. The aspect of delay deserves consideration. However, the entire construct of the allegations in the FIR needs to be kept in view. It is not a case where the victim alleges sexual exploitation by giving promise of marriage or in a relationship which has turned sour. The first informant has alleged that the applicant and the co-accused exploited her by giving threats of making her objectionable video viral. Prima facie, there is material to show that initially the applicant had subjected the first informant to harassment and sexual exploitation. Later on, on the pretext of saving her from further exploitation, Aakash (A1) also allegedly subjected her to forcible intercourse. What aggravates the situation is the allegation that the applicant shared the video containing objectionable material with Aakash (A1) for monetary consideration. Thereafter, the applicant and Aakash (A1) joined hands and exploited the victim on multiple occasions, together.

9. Prima facie, there is material to indicate that the mobile phone which

was recovered from the possession of the applicant contained objectionable material. It is true, there is some lacuna in the investigation in the sense that the said mobile phone was not immediately sent for analysis to the FSL. Nonetheless, the first informant has furnished vivid account of the manner in which she was exploited by the applicant by taking her to various places, including the named lodges. During the course of investigation, IO has collected the extracts of Register maintained at Prince Restaurant and Lodging, Jainakwadi, Parwadi Phata, Baramati. It appears that on 6 March 2023, the applicant had taken the victim to the said lodge and an entry to that effect finds place at Sr. No.14 in the said extract of register.

10. Prima facie, there is material to indicate that the applicant and Aakash (A1) subjected the victim to sexual exploitation and had forcible sexual intercourse with her. If viewed in the context of the manner in which the vulnerable position of the victim was exploited and the absence of a case that the offences were allegedly committed in the course of a relationship between the applicant and the victim, the allegations appear to be grave.

11. As noted above, Aakash (A1) is stated to be still absconding. There is material to indicate that the victim has lodged reports of threats and criminal intimidation at the hands of the relatives of the applicant and the co-accused. The apprehension of tampering with evidence and threatening the witnesses, therefore, cannot be said to be unfounded.

12. In the aforesaid view of the matter, I am not inclined to exercise discretion in favour of the applicant.

13. Hence, the following order :

ORDER

(i) The Application stands rejected.

(ii) 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 co-accused and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N.J.JAMADAR, J.)