

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3003 OF 2024

Ajay Bhimrao More ... Applicant
Vs.
State of Maharashtra and another ... Respondents

Ms. Enaitullah Shaikh for Applicant.

Mr. Babu V. Holambe-Patil for Respondent-State.

CORAM : MANISH PITALE, J.
DATE : OCTOBER 07, 2024

P.C. :

1. Heard Mr. Shaikh, learned counsel for the applicant and Mr. Holambe-Patil, learned APP for the respondent-State.

2. The applicant has filed the present application seeking bail as he was arrested on 28.02.2024 in connection with FIR No.0272 of 2024 dated 27.02.2024 registered with Thanenagar Police Station, District - Thane, for offences under Sections 376(2)(n) and 506(2) of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the statement of the informant (victim), a 20 year old woman, studying for the course of B.M.S. According to the informant, she happened to develop friendship with one Geeta Borate, while studying for the said course. The said Geeta Borate was a police constable and through her, she came to know the applicant, who was also working as a police constable. He used to visit a library where the informant was also used to go for studying. The informant herself has stated that since she has high regard for police personnel, she developed friendship with the applicant.

4. Thereafter, in her statement, the informant has described three

incidents when the applicant called her and committed forcible sexual intercourse with her in December 2023. According to her, she informed her maternal uncle about the said incidents only in February 2024, when she was not feeling well. This led to registration of the FIR and consequent arrest of the applicant.

5. The learned counsel for the applicant submits that the applicant and the informant were in a consensual relationship and it appears that when the family of the informant came to know about the relationship, the applicant was falsely implicated. Attention of this Court is invited to the register of the lodge where the first alleged incident of sexual assault took place on 10.12.2023. It is submitted that the copies of Aadhar Cards of both, the applicant and the informant, were in the record of the said lodge and the relevant portion of the register also recorded that the applicant and the informant had given their correct names and that they had signed the register. It is submitted that this clearly indicates the consensual nature of the relationship between the parties and that it has been unnecessarily given the colour of criminality, leading to registration of the aforesaid offences. It is submitted that the applicant has already suffered incarceration for about eight months and since the charge-sheet is already filed as far back as on 20.04.2024, this Court may consider enlarging the applicant on bail.

6. On the other hand, the learned APP has opposed the present application, submitting that the statement of the informant, leading to registration of the FIR gives three specific instances when the applicant forced himself upon the informant. The other material on record supports the claims made by the informant and considering the serious nature of the offences and the fact that the applicant was working as a police constable, this Court may not show any indulgence. Reference is also made to the supplementary statement of the informant, which

further describes in greater detail, the manner in which the applicant had committed sexual assault on the informant.

7. This Court has considered the rival submissions in the light of the material placed on record. The statement of the informant leading to registration of the FIR, itself, records that the informant had developed “good friendship” with the applicant. It is to be noted that even according to the informant, she came to know about the applicant through Geeta Borate, another police constable, who used to come to the same library for studying to appear for the higher post examinations. The statement of the said Geeta Borate, recorded during the course of investigation, shows that according to her, she is not the person responsible for bringing the applicant and the informant together. In fact, statement of Geeta Borate shows that according to her, in November 2023, she saw the applicant and the informant having tea outside the library and that when she enquired as to how they knew each other, the applicant and the informant laughed and went away from the spot. It is further stated that her mobile number was taken by the mother of the informant on 12/13th December 2023. The mother of the informant called the said Geeta Borate and complained that the informant was getting close to the applicant, while she had been sent to study. According to Geeta Borate, the mother of the informant threatened that unless the two gave up the relationship, she would go to the police station where the applicant was on duty and that, she would create a scene.

8. The statement of the aforesaid witness Geeta Borate, whose reference is made by the informant herself in the statement leading to registration of the FIR, does *prima facie* indicate that the applicant and the informant not only knew each other and were friends, but their relationship appeared to go beyond friendship. This was apparently

disliked by the mother and family of the informant and that it could be said that when the relationship between the two came to light, the aforesaid FIR was registered.

9. The delay of more than two months in registration of the FIR, in the present case, has to be appreciated in this backdrop and on that count, there appears to be substance in the contention raised on behalf of the applicant that the relationship between the applicant and the informant was consensual. There is substance in the contention raised on behalf of the applicant that the contents of the register of the lodge dated 10.12.2023, where the first such act allegedly took place and copies of the Aadhar Cards of the applicant as well as the victim being available in the record of the said lodge, broadly support the contentions raised on behalf of the applicant. Merely because the applicant was working as a police constable ought not to be held against him as this Court has reached a *prima facie* conclusion that the relationship between the parties appears to be of a consensual nature.

10. In view of the above, the application is allowed in the following terms:-

- (A) The applicant shall be released on bail in connection with FIR No.0272 of 2024 dated 27.02.2024 registered with Thanenagar Police Station, District - Thane, on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount to the satisfaction of the trial Court;
- (B) The applicant shall not enter Thane District, during the pendency of the trial, except for attending the proceedings before the concerned Court where the trial is to be conducted;
- (C) The applicant shall report to Navghar Police Station on the

first Monday of every month during the pendency of the trial;

- (D) The applicant shall cooperate with the trial Court for expeditious disposal of the trial;
- (E) The applicant shall not tamper with the evidence of the prosecution. He shall not influence the informant, witnesses or any other person concerned with the case;
- (F) Upon being released on bail, the applicant shall immediately, and in any case within a week, furnish the details of his active mobile number and residential address to the trial Court and update about the same, if there is any change.

11. Needless to say, violation of any of the aforesaid conditions would make the applicant liable to face proceedings for cancellation of bail. It is also clarified that the observations made in this order are limited to the question of grant of bail to the applicant in the present application and that the trial Court shall proceed further, without being influenced by the observations made in this order.

12. The bail application stands disposed of accordingly.

(MANISH PITALE, J.)

Minal Parab