

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3421 OF 2024**

Manoj Pralhad Ingole	...	Applicant
vs.		
The State of Maharashtra and another	...	Respondents

Mr. Chaitanya B. Nikte a/w. Mr. Prajit S. Sahane, Mr. Ritvij Kale, Ms. Darshana Yeram and Mr. Santosh Bhawar for applicant.

Mr. Tanveer G. Khan, APP for respondent No.1-State.

Mr. Vasant Khatele, API, Mumbra Police Station, District Thane.

**CORAM : MANISH PITALE, J.
DATE : 30th SEPTEMBER, 2024**

P.C. :

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

2. The applicant was arrested on 04.03.2024 in connection with FIR No.0874 of 2024 dated 29.02.2024, registered at Mumbra Police Station, District Thane City for offences under Sections 376, 506, 109 and 500 read with Section 34 of the Indian Penal Code, 1860 (IPC).

3. The FIR was registered on the statement of the informant, who claimed that the applicant repeatedly forced himself on her and sexually abused her, as he was blackmailing her on the basis of certain photographs clandestinely taken, showing the applicant and the informant together in a restaurant. It is the case of the informant that since she was under threat of

the said photographs being circulated, she had to agree to the acts of the applicant in forcing himself on her on various occasions in hotels located in and around Mumbra, District Thane. The informant is a married woman with a child.

4. The investigation is completed and chargesheet was filed on 26.04.2024. The applicant is facing prosecution for offences under Sections 376(2)(n), 354, 506 and 109 read with Section 34 of the IPC, as per the chargesheet.

5. The learned counsel for the applicant invited attention of this Court to the statements recorded during the course of investigation and he submitted that the aforesaid statements clearly indicate that there was consensual relationship between the applicant and the informant. When the relationship became known in the locality and the husband of the informant also came to know about the same, a meeting was held wherein the applicant was told that he should marry the informant, as her husband had decided to leave her. It was when the applicant asked for some time, that the informant approached the police and FIR came to be registered.

6. It is submitted that the documents filed alongwith the chargesheet also show that on various occasions, the informant joined the company of the applicant in hotels, wherein she adopted the identity of various individuals whose aadhar cards were used in the process. By relying on the statement of her neighbour recorded during the course of investigation, it is submitted that it was the informant, who arranged for such aadhar cards/documents in order to show herself as being some other person, thereby indicating that she was very much party to the activities in the consensual relationship.

7. It is submitted that other than the statement of the informant about being forced and blackmailed by the applicant, there is no material to support her case and on the contrary, the material on record indicates consensual relationship between the parties. On this basis, the learned counsel for the applicant seeks relief in the present application. It is submitted that the applicant undertakes to abide by any condition that may be imposed by this Court.

8. The learned APP, on the other hand, submitted that the statement of the informant, leading to registration of FIR and also her statement recorded under Section 164 of the Criminal Procedure Code, 1973, before the Magistrate, clearly bring out a case of coercion and blackmailing, wherein the applicant forced himself upon the informant, on the basis that he had certain photographs of the informant and the applicant together, such photographs being taken clandestinely and without the knowledge of the informant. It is submitted that the statements of the neighbour and others, upon which the learned counsel for the applicant has relied, can be said to be hearsay and therefore, by placing reliance on statement of the informant, the learned APP submitted that a strong *prima facie* case is made out against the applicant and he does not deserve any indulgence from this Court.

9. Since this case concerns serious allegations of sexual abuse suffered by the informant at the hands of the applicant under coercion and threat, this Court has carefully considered the material on record, including the statements of the witnesses recorded during the course of investigation. The statements include the statement of the owner of the mobile shop where the applicant was working. This shop is adjacent to the locality/*chawl* where the

informant resides with her husband and family. The statements of the brother-in-law and mother of the informant are also on record and the statement of the neighbour living in the same *chawl* is also relied heavily on behalf of the applicant.

10. A perusal of the aforesaid statements indicates that while some portions of the said statements can indeed be said to be hearsay, as contended by the learned APP, but the statements also give an impression that the interaction between the applicant and the informant was a fact that had come to light in the neighbourhood and particularly the *chawl* in which the informant resides. The statement of the neighbour indicates that according to him, the relationship between the applicant and the informant was known and that he also suspected that the aadhar card of his sister was perhaps misused by the informant. It is relatable to the material available in the chargesheet, indicating that the name of the sister of the aforesaid neighbour featured in the register of one of the hotels, where the applicant and the informant had been together. The statement of the brother-in-law of the informant also *prima facie* gives an impression that there was a relationship between the applicant and the informant and when it came to light, a solution was sought to be found by arranging a meeting on 12.02.2024. The statements of the brother-in-law and mother of the informant bring out the factual position that in the said meeting, the husband of the informant had indicated that he would no longer stay with her and in that backdrop, the applicant was told that he must marry the informant. At this stage, as per the aforesaid statement, when the applicant sought time, the FIR was registered about 15 days thereafter on 29.02.2024.

11. The statements of the witnesses recorded during the course of investigation do create a *prima facie* impression that the applicant and the informant knew each other, that they were interacting with each other frequently and that in the neighbourhood, there was a talk that they were in relationship.

12. The statement of the informant that she was forced into keeping such physical relationship with the applicant over a period of time, till it was discovered by her family, *prima facie* is not supported by material on record.

13. This Court has gathered an impression that after the relationship became public and its consequences became obvious, the informant caused the FIR to be registered, claiming that she was forced into keeping physical relationship with the applicant under threat and coercion, particularly in the backdrop of certain photographs that could have been made public or circulated by the applicant and the co-accused person. It is difficult to understand how the photographs showing the informant and the applicant together in a restaurant, could lead to such repeated physical abuse over a period of more than one year, with the informant not informing anybody about such a situation. The theory regarding threat and coercion *prima facie* appears to be resorted to, after the relationship became public and the husband, brother-in-law and family of the informant insisted that the applicant should marry the informant.

14. The medical examination report obviously does not show any signs of forcible sexual intercourse and this is also a factor to be taken into consideration.

15. Considering the fact that the applicant has remained behind bars since 04.03.2024 and the chargesheet is already filed, indicating that the investigation is complete, this Court is inclined to allow the present application.

16. At the same time, the apprehension expressed by the learned APP about the possibility of the applicant adversely affecting the trial by influencing the informant, cannot be ignored. Appropriate stringent conditions can be imposed upon the applicant, while granting him bail.

17. 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.0874 of 2024 dated 29.02.2024, registered at Mumbra Police Station, District Thane City, on furnishing PR Bonds of ₹ 50,000/- and one or two sureties in the like amount to the satisfaction of the trial Court.
- (ii) The applicant, upon being released on bail, shall report to Azad Maidan Police Station on first Monday of every month between 10:00 a.m. and 12:00 noon, during the pendency of trial.
- (iii) The applicant shall not enter District Thane during the pendency of the trial, except for attending the proceedings before the trial Court.
- (iv) The applicant shall not contact the informant or her family members, during pendency of the trial.
- (v) 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.
- (vi) The applicant shall co-operate with the trial Court in completing the proceedings expeditiously and attend the proceedings before the trial Court on each and every date, unless specifically exempted.

(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.

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

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

20. The application is disposed of.

(MANISH PITALE, J)

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by PRIYA
KAMBLI
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Priya Kambli