

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3530 OF 2024

Deepak Dayanand Suvarna

...Applicant

vs.

The State of Maharashtra

...Respondent

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SUBHASH
PAREKAR

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Mr. Raghavendra Mehrotra a/w. Mr. Madhat Shaikh and Mr. Irfan Shaikh, for the Applicant.

Mr. H.J. Dedhia, APP for the State.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 11, 2024

P.C.:

1. Heard the learned counsel for the applicant and the learned APP for the State.

2. The applicant, who is arraigned in C.R. No. 1259 of 2022, registered with Kandivali police station for the offences punishable under sections 323, 366, 376, 427 and 504 of Indian Penal Code, 1860 (the Penal Code), has preferred this application to enlarge him on bail.

3. In fact, this is the second application for bail. The first application, being Bail Application No. 2191 of 2023, came to be dismissed as withdrawn by an order dated 8th January, 2024. The indictment against the applicant runs as under:-

The first informant is a 25 year old lady. She had posted her profile on a matrimonial website. About 25 days prior to the alleged occurrence, the applicant allegedly made inquiries with the mother

of the first informant identifying himself Rajiv Pujari. The applicant and the first informant exchanged phone numbers.

On 30th September, 2022, the applicant called the first informant at Daffolidies Restaurant, Kandivali. They had drinks and dinner. While the first informant was under the influence of intoxicant, the applicant took her to a lodge at Dahisar and had sexual intercourse with her without her consent. On the next day, the applicant again took her to another lodge at Goregaon (w) and after sexually exploiting her, the applicant raked up quarrel with her. Somehow the first informant managed to run away and apprise her sister about her ordeal. The first informant and her sister thereafter approached Kandivali police station and lodged the report.

4. Mr. Mehrotra, the learned counsel for the applicant, who has been appointed to espouse the cause of the applicant, submitted that the relationship appeared to be consensual. The first informant was a grown up lady. The first informant had accompanied the applicant to multiple hotels and lodges. The sexual intercourse was consensual. As the relationship turned sour, the applicant has been falsely roped in.

5. Mr. Mehrotra invited attention of the Court to medico legal examination report of the first informant which indicates that the

first informant had narrated the history of an earlier incident of sexual exploitation 15 to 20 days prior to the incident reported in the FIR. Emphasis was laid on the fact that there is no whisper about the alleged earlier incident of sexual exploitation in the FIR. Cumulatively, according to the learned counsel, it would appear that the applicant and the first informant were in a relationship and they had physical relations on multiple occasions. It was further submitted that the applicant has been in custody since 2nd October, 2022. Investigation is complete. The trial has yet not commenced. Therefore, the applicant deserves to be enlarged on bail.

6. Mr. Dedhia, the learned APP, stoutly resisted the prayer for bail. It was submitted that the applicant appears to have resorted to the modus operandi of sexually exploiting unsuspecting girls by approaching them on the basis of on their profile on matrimonial websites. The applicant is facing identical allegations in C.R. No. 314 of 2018 registered with Juhu police station. The victim in the said case was also approached on the pretext of matrimonial alliance. The applicant was arrested in the said case in the month of November, 2018 and was released by an order dated 12th August, 2021. Under a year thereof, the applicant has gain sexually exploited the victim in the instant case. Therefore, the applicant does not deserve to be enlarged on bail.

7. I have carefully perused the material on record.

8. Prima facie, the allegations against the applicant appear to be grave. That was the reason this Court had expressed its disinclination to entertain the prayer for bail and thereupon the first BA No. 2191 of 2024 was withdrawn by the applicant. Nonetheless, I propose to assess the prayer for bail on merits.

9. The thrust of the submission on behalf of the applicant was that the sexual relations were between two consenting adults. Laying emphasis on the history narrated before the medical officer especially with regard to prior incident of sexual exploitation, and the fact that on 30th September, 2022 and 1st October, 2022 there were two separate incidents of alleged sexual exploitation at two different lodges, Mr. Mehrotra, the learned counsel, would urge that the consensual nature of the relationship becomes evident.

10. At the first blush the submission appears attractive. However, the context cannot be lost sight of. The first informant alleged that barely 25 days prior to the alleged occurrence, the applicant had approached the mother of the first informant under a pseudonym Rajiv Pujari. The captain working at Daffolidies Restaurant has stated that the applicant identified himself as Rajiv. The first informant further alleged that on 30th September, 2022 she had drinks and the applicant sexually exploited her while she was in a

vulnerable state due to influence of the intoxicant. There is material to indicate that the mother of the first informant had called the first informant on her phone and the call was received by the applicant. Sensing something amiss, the sister of the first informant lodged a missing report at Dindoshi police station. On the next day at about 6.15 pm, the first informant apprised her sister that she had rescued herself and thereupon they again approached Dindoshi police station. Crime was registered at 'Zero' number and, thereafter, the investigation was transferred to Kandivali police station.

11. It is in the aforesaid backdrop, the allegations of the first informant that she was sexually exploited without her consent deserve to be prima facie appreciated.

12. I find substance in the submission of the learned APP that a pattern emerges from the cases registered against the applicant. I have perused the copy of the FIR in C.R.No. 314 of 2018 registered against the applicant for the offences punishable under sections 323, 366, 376, 427 and 504 of the Penal Code. In that case as well, the first informant therein alleged that the applicant had approached her with a proposal of marriage through a matrimonial website and sexually and financially exploited her. The applicant was released on bail in the said case on 12th August, 2021. Hardly a

year had elapsed, the applicant came to be arraigned in the instant case, with similar allegations.

13. If viewed in the context of antecedents of the applicant, the submissions of Mr. Dedhia that the applicant had resorted to the modus operandi of sexually exploiting unsuspecting ladies by approaching them on the pretext of matrimonial alliances cannot be brushed aside lightly. This factor dissuades the Court from exercising discretion in favour of the applicant.

Hence, the following order.

ORDER

1] The application stands rejected.

2] By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination of entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

Application disposed.

(N. J. JAMADAR, J.)