

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4486 OF 2024

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Pritam Ramesh Ahire

...Applicant

vs.

The State of Maharashtra

...Respondent

Mr. Sanjeev Kadam a/w. Mr. Dilip Shinde, for the Applicant.

Mr. A.A. Naik, APP for the State.

Mr. A.N. Ghaste, Khadakpada, Kalyan police station.

CORAM : N. J. JAMADAR, J.

DATE : DECEMBER 9, 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. 106 of 2023, registered with Kadakpada police station for the offences punishable under sections 376 and 506 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 The first application, being Bail Application No. 1946 of 2023, was dismissed as withdrawn by an order dated 23rd January, 2024.

4. The indictment against the application can be summarized as under:-

The first informant, who is a 38 year old lady, had known the applicant as they both were working in the office of a builder. Both

left the said employment. The applicant started his independent construction business. The applicant was in touch with the first informant. The applicant requested the first informant to find the customers for the sale or renting out of the rooms constructed by him. On 17th March, 2023 at 3.00 pm, the applicant called the first informant and asked her to come to his construction site near Mutha College. Thereafter, on the pretext of having a meeting with a builder, the applicant asked the first informant to join in the said meeting at Aditya Lodge. The first informant reached Aditya Lodge at 4.00 pm. The applicant took her to a room. Despite resistance of the first informant, the applicant allegedly had sexual intercourse with the first informant without her consent and by putting her in fear. After the alleged incident of sexual exploitation, the first informant approached Anita Jadhav, a social worker, and with her assistance the report came to be lodged on the following night.

5. Mr. Sanjeev Kadam, the learned counsel for the applicant, submitted that the applicant has been falsely roped in. The first informant is a married lady with grown up children. The allegations of sexual exploitation are improbable as no injury on her person was found by the Medical Officer during the course of medico legal examination of the alleged victim, even though the victim claimed that she did not give consent. An endeavour was made to draw

home the point that the applicant and the first informant were in a relationship outside marriage. As the relationship turned sour, the first informant lodged the report.

6. Per contra, Mr. Naik, learned APP, strenuously resisted the prayer for bail. It was submitted that the first informant has categorically stated the manner in which the applicant abused his position to exploit her. There are statements of witnesses which lend support to the claim of the first informant. There is overwhelming material to show that the applicant took the victim to Aditya Lodge. In addition to the statement of owner and manager of the said lodge the presence of the applicant with the informant in the said lodge has also been captured by CCTV. In this view of the matter, there is no reason to doubt the version of the first informant. Therefore, the applicant does not deserve to be enlarged on bail.

7. First and foremost, it is imperative to note the contemporaneous conduct of the first informant. Immediately after the occurrence, the first informant contacted her friend Anita Jadhav. The statement of Anita Jadhav prima facie indicates that the first informant narrated the incident of exploitation at the hands of applicant to her. Secondly, almost instantaneous lodging of FIR lends prima facie, credence to the version of the first informant.

The statement of Anita Jadhav thus prima facie lends necessary corroboration to the version of the victim.

8. Thirdly, it is imperative to note the presence of the applicant and the first informant at Aditya Lodge is also prima facie borne out by the material on record. The owner of the lodge has stated that on the day of the occurrence between 3.30 pm to 4.00 pm, the applicant had called him and requested him to provide a room at Aditya Lodge as the wife of the applicant was to accompany him. Thereupon, the owner asked the manager of the lodge to provide a room to the applicant and not to make entry in the register. The manager of the lodge has, in turn, stated that the applicant and the first informant were in the said lodge from 4.00 pm to 5.00 pm.

9. Fourthly, the version of the first informant also finds support in the medico legal examination report. She has narrated the history of sexual exploitation by the applicant. The fact that no external injuries were found, by itself, does not detract materially from the version of the first informant.

10. In the backdrop of the aforesaid material, at this stage, I find it rather difficult to discard the version of the first informant that the applicant had sexual intercourse with her without her consent. A very strong prima facie case is made out against the applicant. The defence of consensual relationship sought to be pressed into

service on behalf of the applicant prima facie appears to be half hearted one. I am, therefore, not inclined to exercise the 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 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.)