

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

49 BAIL APPLICATION NO. 1153 OF 2025

FAYYAZ KHAYYUM SHAIKH

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Advocate for Applicant : Mrs. Pathan Tahiwarekhan Wajeedkhan

APP for Respondent/State : Mrs. V.N.Patil-Jadhav

Advocate for Respondent 2 : Ms. Shilpa Aurangabadkar

...

CORAM : ARUN R. PEDNEKER, J.

DATE : 04/08/2025

P.C. :

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State and Ms. Shilpa Aurangabadkar, learned counsel appointed for respondent No. 2.
2. The applicant is seeking bail as he is arrested on 29.12.2024 in connection with Crime No. 652/2024 dated 29.12.2024 registered with Bhagyanagar Police Station, Nanded for offence punishable under sections 354-A, 376(2)(n), 384, 506(2) of I.P.C., under section 4, 8 and 12 of the Protection of Children From Sexual Offences Act and under sections 3(1)(w)(i) (ii), 3(2)(v)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989
3. The case of the prosecution against the applicant is that in the year 2021 the applicant had expressed desire to marry the victim and maintained physical relations with her. He had also taken the victim to Hyderabad in 2022 for about 27 days and has kept physical relations with her. At the relevant time, in 2021 the victim was nearabout 16 years old and the applicant was nearabout 24 years old. At that time, the parents of the victim had given missing complaint. It is stated that after the victim was traced out, her

custody was handed over to Child Welfare Home. It is also stated that in the year 2022 also the applicant had kept physical relations with the victim. It is stated that in June 2024, the applicant had demanded amount of Rs. 50,000/- along with four grams gold chain and took money from the victim. As such, the F.I.R. is registered for aforesaid offences against the applicant on 29.12.2024 and the applicant is arrested on the same day.

4. The learned counsel for the applicant submits that the applicant and the victim were in relations. However, they were not having physical relations. In the year 2022, the victim was nearabout 17 years old and she is having age of understanding. The applicant is arrested on 29.12.2024 and since then he is behind bars. The learned counsel submits that mobile phone of the applicant is recovered and nothing incriminating is found in the mobile. The learned counsel submits that investigation is completed and chargesheet is also filed in this matter. The learned counsel therefore prays to release the applicant on bail.

5. Per contra, the learned APP strongly opposed the application by submitting that although mobile phone is recovered from the applicant, no photographs are found in the mobile. However, the learned APP makes a statement that mobile is not sent for forensic examination. The learned APP submits that on account of intervention of the applicant, the victim's earlier marriage is disrupted and now the victim is again intending to marry some other person and in the event, the applicant is released on bail, there is possibility that the applicant may again intervene in the marriage of victim and her marriage may again possibly not go through. The learned APP therefore prays to reject the application.

6. The learned counsel appointed for respondent No. 2/victim submits that the applicant had taken the victim to Hyderabad and for around 27 days, the

applicant had kept physical relations with the victim. The learned counsel submits that in the year 2021 also the applicant had kept physical relations with the victim, when she was a minor at the relevant time. The learned counsel therefore submits that the applicant is not entitled for any relief.

7. Having considered the above submissions and police papers, it appears that the FIR is lodged belatedly after long period of time after the first alleged incident of 2021. So also, in the year 2022 the victim was about 17 years old and she herself travelled with the applicant at Hyderabad and stayed with applicant for nearabout 27 days. Now investigation in the matter is completed, chargesheet is filed. By keeping the applicant behind bars till the conclusion of the trial, no purpose would be served. Considering all above, by imposing some stringent conditions on applicant, regular bail can be granted to the applicant.

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

- a] The applicant shall be released on bail in connection with Crime No. 652/2024 dated 29.12.2024 registered with Bhagyanagar Police Station, Nanded for offence punishable under sections 354-A, 376(2)(n), 384, 506(2) of I.P.C., under section 4, 8 and 12 of the Protection of Children From Sexual Offences Act and under sections 3(1)(w)(i)(ii), 3(2)(v)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- b] The applicant shall not enter Chhatrapati Sambhajnagar for the period of one year from today.
- c] The applicant, upon being released on bail, shall not contact the informant or any of her prospective groom or his family/friends, in any manner whatsoever, during the pendency of the trial.

d] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.

e] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

f] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

9. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

10. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. The application stands disposed of.

12. High Court Legal Services Sub-Committee, Aurangabad shall pay fees of Rs.10,000/- to the learned counsel appointed for respondent No. 2.

[ARUN R. PEDNEKER, J.]

SSC/