

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 74 OF 2024

Ishwar Balasaheb Dahifale

.. Applicant

Versus

State Of Maharashtra

.. Respondent

.....

- Mr. Satyam Harshad Nimbalkar i/b Mr. Vaibhav A. More, Mr. Aman D. Pawar and Mr. Abhishek U. Arote, Advocates for Applicant.
- Mr. Dinesh J. Haldankar, APP for State.

.....

CORAM : MILIND N. JADHAV, J.

DATE : MARCH 19, 2025

P. C.:

1. Heard Mr. Nimbalkar, learned Advocate for Applicant and Mr. Haldankar, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 333 of 2021 registered with Turbhe MIDC Police Station for the offence punishable under Sections 376 and 506 of the Indian Penal Code, 1860 and Section 66D of the Information and Technology Act, 2000.

3. Association of Applicant and prosecutrix in the present case is from February, 2018. By the end of that year they both fell in love with each other. They both were working in the same office and they had a love relationship as stated in the statement appended at

page No.39 of the Application. They together has also visited several places like malls, wonder park. Confession of the love relationship ultimately resulted in the prosecutrix introducing the Applicant to her parents in December, 2018 with the intention to marry him. Thereafter prosecutrix left her job where she had met the Applicant in February, 2019 and after a hiatus of 5 months joined another job in Somaiyya College. All throughout the prosecutrix and Applicant were in touch with each other.

3.1. Applicant was introduced a second time to the parents of the prosecutrix but because they apprehended that he did not have a permanent place of residence they were hesitant. To that extent Applicant booked a flat in a construction project at Taloja and had shown the said flat to the prosecutrix and had also introduced her to the broker and developer over there. However, subsequently, the prosecutrix realised that the said flat agreement or transaction was not fructified due to the cheques given by the Applicant having been dishonoured.

3.2. Post January, 2020, prosecutrix blocked the Applicant. However, despite which he ended up and chatting and talking with her through other accounts and 4 different numbers. FIR is lodged on 10.10.2021.

4. Mr. Haldankar, learned APP has persuaded the Court to consider that between February, 2018 and September, 2021 both of them were together and therefore the alleged incident stated in the FIR should be considered by the Court as the FIR is extremely verbose *prima facie*.

5. The only singular incident that is alleged in the FIR is on 07.07.2019 when on a rainy day Applicant and prosecutrix were caught out in the rain and because they got late they both proceeded to the house of the Applicant in Shivaji Nagar where he was staying on rent. At that place they had a physical encounter is what is stated in the FIR.

6. The apprehension expressed by the prosecution which can be gathered from the statement in the FIR and her supplementary statement recorded two days later is that there is a threat from the Applicant as he had opened four Instagram/Facebook accounts in her name and she was informed about the same by her friends. The photographs having been posted on these accounts is what was complained of by the prosecutrix. However, threat perception is expressed by the prosecutrix in her supplementary statement recorded two days later after filing the FIR and not in the principal FIR.

7. What is observed by the Court in the present case is that both Applicant and prosecutrix were of the same age i.e. 28 years old at the time of alleged incident. They were in a love relationship with each other as expressed and stated by the prosecutrix herself in the FIR. They knew each other for a substantial long period of time. The medical examination report is inconsequential in view of the substantial delay with respect to the alleged incident having occurred on 07.07.2019 and the medical examination being carried out in October, 2021.

8. Considering the fact that both the Applicant and prosecutrix being of understanding age and considering the long incarceration of the Applicant for the past 3 years 3 months and 20 days would persuade me to consider Applicant's case for grant of bail.

9. Hence, Bail Application is allowed subject to the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing PR. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;

(iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;

(iv) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;

(v) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vii) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner; and

(viii) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

10. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any

observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

11. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]