

AGK

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO.1435 OF 2024

Naeem Mainuddin Saiyed	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr. Bablu J. Shaikh for the applicant.

Ms. Mahalaxmi Ganapathy, APP for respondent No.1-
State.

Mr. V.S. Khatele, API, Mumbra Police Station, is
present.

CORAM : AMIT BORKAR, J.

DATED : JULY 1, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 954 of 2022 registered with Mumbra Police Station. The applicant has been arrested for the offences punishable under Sections 376, 376(2)(n), 506(2), and 323 of the Indian Penal Code, 1860.

2. The case of the prosecution, in brief, is that the applicant is the stepfather of the informant. It is alleged that the applicant had been making advances towards the victim seeking sexual favours. On one such occasion, the applicant is said to have caught hold of the hand of the victim and forced her to touch his private part. On

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7th October 2022, it is alleged that when no one else was present at home except the victim, the applicant came to the house at around 8:00 p.m. and again made a demand for sexual favour. On her refusal, he allegedly assaulted her physically with hands and legs, forcibly removed her clothes, and committed rape upon her on two occasions. It is further alleged that he threatened the victim with dire consequences if she disclosed the incident to anyone. Later, when the victim's husband returned home on 11th October 2022, she informed him about the incident. Thereafter, on 12th October 2022, the victim approached the police and lodged the report. Based on the said report, the police registered FIR No.954 of 2022 under the aforesaid sections of the IPC, and the applicant was arrested on 2nd February 2023.

3. The learned Advocate for the applicant has contended that there is a delay of about five days in lodging the FIR, although the alleged incident occurred on 7th October 2022. He submits that this delay casts a doubt on the truthfulness of the allegations. It is further submitted that the applicant got married to another woman, which has led to false implication in this case. The applicant is in custody since 2nd February 2023, and the trial is not likely to conclude in the near future. It is therefore prayed that the applicant be released on regular bail.

4. On the other hand, the learned APP has strongly opposed the bail application. It is submitted that the statement of the victim is corroborated by medical evidence. The delay in lodging the FIR has been sufficiently explained — the victim's mother was not reachable and her husband returned only on 11th October 2022,

after which she could muster the courage to report the incident. It is contended that the nature of the offence is grave and serious, and considering the relationship between the applicant and the victim, releasing the applicant on bail may adversely affect the trial and safety of the victim. Hence, it is submitted that the applicant does not deserve to be released on bail.

5. I have considered the submissions advanced by the learned counsel for the applicant as well as the learned APP. I have also gone through the material placed on record including the FIR, statement of the victim, and the medical report.

6. The allegations made against the applicant are undoubtedly serious in nature and involve an offence punishable under Section 376 of the Indian Penal Code. However, certain aspects of the matter require consideration. The alleged incident is stated to have occurred on 7th October 2022, whereas the FIR came to be lodged on 12th October 2022. Though the delay has been sought to be explained, the same cannot be brushed aside in the context of an adult victim and the fact that the accused is a stepfather. Further, the medical report does not appear to conclusively establish recent sexual assault and will ultimately be tested at the time of trial. The applicant was arrested on 2nd February 2023 and has been in custody since then.

7. The trial is not likely to conclude in the near future. The prosecution has not shown any antecedents against the applicant. There is no material placed before this Court to indicate that the applicant, if released on bail, will threaten the informant or tamper

with the prosecution evidence.

8. It is well-settled that the object of bail is not to detain the accused as a form of punishment before conviction, especially when the trial is likely to take considerable time. At this stage, a detailed examination of the evidence is not required. Prima facie, taking into account the totality of circumstances, and without commenting upon the merits of the case, I am of the opinion that the applicant has made out a case for grant of bail.

9. Hence, following order:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.954 of 2022 registered with Mumbra Police Station for alleged offence punishable under Sections 376, 376(2)(n), 506(2) and 323 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - a) The applicant shall report Mumbai Police Station on first Monday of every month between 11.00 a.m. and 1.00 p.m.;
 - b) The applicant shall not tamper with the evidence or attempt to influence any witness;
 - c) The applicant shall appear before the Trial Court on

every date of hearing unless prevented by sufficient cause;

d) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission;

e) The applicant shall not indulge in any criminal activity during the pendency of the trial;

f) The applicant shall not involve himself in any similar offence during the pendency of the trial; and

g) If any of the above conditions are breached, it shall be open to the prosecution to seek cancellation of bail.

10. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)