

Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1437 OF 2024

Shamsulhaque Rahimali Ansari

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

-
- Mr. Gautam J. Jain, Advocate for Applicant.
 - Mr. Hitendra Dedhia, APP for Respondent No.1 – State.
 - Ms. Pooja Deshmukh, Advocate for Respondent No.2 appointed through High Court Legal Services Committee.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 08, 2025.

P.C.:

1. Heard Mr. Jain, learned Advocate for Applicant; Mr. Dedhia, learned Advocate for Respondent No.1 – State and Ms. Deshmukh, learned Advocate for Respondent No.2 appointed through High Court Legal Services Committee.

2. Present Application seeks grant of bail. Applicant is indicted in Crime No.603 of 2022 for the offences punishable under Sections 376, 504 and 506 of the Indian Penal Code, 1860 (for short “**IPC**”).

3. Date of the First Information Report (for short “**FIR**”) is 28.09.2022 filed by the Complainant who is the daughter-in-law of the Applicant before me. In the FIR, it is seen that 4 specific incidents are narrated by the Complainant beginning in the first week of September 2022 followed by second incident 4 – 5 days later, thereafter third

incident specifically dated 18.09.2022 followed by the fourth incident on 23.09.2022.

4. Narration of all the above 4 incidents is absolutely identical in as much as it is stated that the Applicant's father-in-law ravished her modesty while she was sleeping at home between 02:30 p.m. to 03:00 p.m. on all dates. All the above 4 incidents happened when no one was other present according to Complainant. In respect of 2 out of 4 incidents as alleged the Complainant states that her father-in-law slapped her and threatened her to keep quite. It is seen that Complainant stays in the house alongwith other family members namely, her father-in-law, her mother-in-law i.e. husband and her two sisters-in-law and a brother-in-law. Their whereabouts on the dates of the four incidents are not stated.

5. Complainant was married to the son of Applicant almost a year ago into the family. Despite the narration of the aforesaid 4 incidents, what is intriguing is the fact that the Complainant did not complain to any person and more specifically her family members namely, her father, mother and aunt who have also recorded their statements 2 days after the filing of the FIR. Statement of the mother of the Complainant is appended at page No.45 of the Bail Application. It is dated 30.09.2022. That statement clearly records that she had received a complaint on phone from the Applicant about the

Complainant not doing any work in the house, quarreling with her mother-in-law and on one occasion she having assaulted her mother-in-law. Mother of Complainant specifically records that during that time the family members of Complainant intervened and there was verbal altercation between the two families also, resultantly because of which they had to bring the Complainant back to their house.

6. What is important and intriguing is the fact that mother of the Complainant does not state anything about the allegation of the 4 specific incidents stated in the complaint by the Complainant at all, but in her statement she merely states that it is only after the Complainant was brought back to their house, she narrated the happening of the 4 incidents which are stated / alleged in the complaint.

7. The statement of the father appended at page No.46 of the Bail Application is an identical replica of the statement given by the mother of the Complainant so also the statement of her aunt which is appended at page No.48 of the Bail Application. Incidentally, Investigating Agency / Officer have also recorded the statement of one Ms. Noorjaha Khatun Mohd. Anwar Shaikh, a neighbour of the Applicant's family who has infact supported the case of the Applicant.

8. Mr. Jain, learned Advocate for Applicant would also draw my attention to page Nos.42 and 43 which is a medical certificate of Applicant recorded by the Medical Officer with specific reference to the

incident which took place on 23.09.2022 and 24.09.2023. That statement which is recorded states that the Applicant's wife had quarrel with the Complainant leading to Applicant having slapped (assaulted) the Complainant after which she has filed the present case against him.

9. From the reading of the aforesaid complaint and the subsequent statements recorded by the prosecution, it is clear that the case of the Complainant as stated in the FIR is clearly attempted to be improved by the witnesses presented by her who are her own family members, but at the same time, it is unfathomable to believe that all 3 witnesses namely her mother, father and aunt would remain quite all the while, if they would had known about the incident which are alleged in the complaint beginning from the first week of September 2022. What is important in the fact that all the above 3 witnesses in their statements have clearly supported the case of the Applicant with respect to the quarrel which had taken place and relating to the assault by the Complainant on her mother-in-law. Unnumbered paragraph No.3 of all 3 recorded statements of the 3 witnesses of the prosecution supports this case of the Applicant.

10. That apart, in the Section 164 statement of the Code of Criminal Procedure, 1973 appended at page No.70 of the Bail Application it is seen that Complainant has narrated / alleged only

about the first incident in the first week of September and the fourth incident of 23.09.2022 about which she has specifically narrated a completely different version altogether. There is clear dichotomy as existing in the Complainant's versions.

11. On reading the aforesaid statements, I am *prima facie* convinced with the case of the Applicant and therefore he deserves to be granted bail.

12. Ms. Deshmukh, learned Advocate for Respondent No.2 would submit that Complainant is still receiving threats as per instructions given to her and in that view of the matter would submit that appropriate conditions be imposed. Bail Application stands allowed.

13. Hence, the following order:-

- (i) Applicant – Shamsulhaque Rahimali Ansari is directed to be immediately released from prison in connection with C.R. No.I-603 of 2022;
- (ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one surety of the like amount;
- (iii) Applicant shall report to the Investigating Officer at Shanti Nagar Police Station, Bhiwandi, once every month on the first Monday of the month between 10:00

a.m. to 12:00 p.m. for the first 6 months and thereafter as and when called by the Investigating Officer;

- (iv) 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 revocation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (ix) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and
- (x) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

14. Bail Application is allowed and disposed of in the above terms.

[MILIND N. JADHAV, J.]

Ajay