

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

BAIL APPLICATION NO. 2225 OF 2024

Mohith Kumar Ganapa Shetty .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Ankesh R. Thakur, Advocate, for the Applicant
Mr. S. A. Karmakar, APP, for No. 1 Respondent – State
Mr. Laxman Kalel, Advocate, for Respondent No. 2
Mr. Anil Jadhav, PSI, Badlapur (W) Police Station present
Mr. Anil Thorave, IO, present

CORAM : MILIND N. JADHAV, J.

DATE : 04.03.2025

P C.

1. By this application, the Applicant seeks his enlargement on bail in connection with C. R. No. 109 of 2024 for the alleged offences punishable under Sections 376 and 506 of the Indian Penal Code (for short 'IPC') registered with the Badlapur Police Station (W), District – Thane.

2. According to the prosecution and FIR, a copy of which is appended at page No. 17 of the Application, it is seen that the prosecutrix knew the Applicant since 01.01.2019. The tenure of the incident stated in the FIR is from 01.01.2019 to 31.12.2023, whereas the FIR was lodged on 16.02.2024. *Prima facie*, reading of the FIR

clearly states that the Applicant, being a lady aged 35 years having two children not only she knew the Applicant very well from the year 2019 but also resided with the Applicant together for several days in the flat of the prosecutrix's friend during the aforesaid tenure. That apart, the Applicant has also stated about the consensual nature of the relationship between the parties specifically in the FIR itself which would *prima facie* enure to the benefit of the Applicant insofar as indictment under Sections 376 and 506 of the IPC are concerned. Insofar as charge under Section 377 of the IPC is concerned, there is nothing incriminating material stated or found from the statements which are recorded. It needs to be stated that three statements of the friends have been recorded but all three friends have specifically stated that the Applicant and the prosecutrix resided together and in fact, they presumed them to be husband and wife concerning their behaviour and have also stated that they did not understand the language in which the Applicant and prosecutrix communicated with each other whenever they met them at their house.

3. Mr. Kalel, learned Counsel for Respondent No. 2 - prosecutrix persuaded the Court to consider the prosecutrix's case insofar as indictment under Section 420 of the IPC is concerned, on the basis of the statement of the prosecutrix that she had gifted Gold ornaments,

furniture and expensive gifts to the Applicant. The record itself shows that based on the witness statements which are recorded that the said gifts were given to the Applicant on his birthday which was celebrated by the prosecutrix in the year 2020. Investigation is complete. Charge-sheet has already been filed. The statements of witnesses have already been recorded. *Prima facie*, it is seen that the Applicant as also prosecutrix are both well educated adults and law abiding citizens and their relationship was consensual over a long period of time.

4. Considering the aforementioned facts, I do not find any reason for further long incarceration of the Applicant in prison. Needless to state that the complicity of the Applicant in any of the offences in that regard shall be proved at the trial.

5. Considering the *prima facie* material on record, the Applicant deserves to be enlarged on bail on the following terms and conditions :

O R D E R

(i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;

(ii) The Applicant shall attend the concerned Police Station as and when called for by the investigating officer;

(iii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- (iv) The Applicant shall not make any attempt to re-associate with the victim girl in any manner either through any device or in-person;
- (v) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and/or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- (vi) The Applicant to co-operate with the conduct of the trial;
- (vii) If there is a breach of any of the aforesaid conditions, the prosecution shall be at liberty to seek cancellation of the Applicant's bail.

6. The Application is allowed in the aforesaid terms and is accordingly disposed of.

7. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

8. All concerned to act on the authenticated copy of this order.

(MILIND N. JADHAV, J.)