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

BAIL APPLICATION NO.2755 OF 2024

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Mohammed Neyaj Mohammad Rais

Alam @ B R Bhai @ M D Niyaj

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Quaid Johar Kapasi with Mr. Rohan Kakade for the applicant.

Ms. Shilpa G. Talhar, APP for the State.

Mr. Pramod Badakh, PI, Kashmirira Crime Branch is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 2, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Criminal Procedure Code, 1973, seeking grant of regular bail in connection with Crime No. 389 of 2023, registered at Arnala Police Station, for offences punishable under Sections 420, 501, and 34 of the Indian Penal Code, 1860; Sections 66E, 67, and 67A of the Information Technology Act, 2000; and Sections 3, 4, and 6 of the Indecent Representation of Women (Prohibition) Act, 1986.

2. As per the case of the prosecution, the First Informant is a young woman aged about 18 years and 6 months, pursuing a

profession as a supporting actor. She was actively part of various acting groups on the messaging platform WhatsApp. In the month of July 2023, the Informant came in contact with one Rupesh Sharna at a film set at Naigaon Sane Studios, and both of them exchanged contact details. They stayed in regular touch and used to inform each other about upcoming work opportunities in television or cinema.

3. On 29th October 2023, at around 3:00 p.m., the Informant received a WhatsApp message from mobile number 7285051994. The sender claimed that he got her number from a WhatsApp group of film aspirants but did not disclose his own identity. He stated that an audition was being conducted for a movie requiring a couple and requested the Informant to contact him further through WhatsApp. Upon receiving this message, the Informant contacted Rupesh and informed him about the offer. Once Rupesh expressed willingness, she resumed her communication with the said unknown person.

4. On 1st November 2023, around 9:00 a.m., the said person called the Informant through WhatsApp and instructed her to reach Amala Bus Depot with Rupesh and some costume outfits. He also told them that one of his female associates would be present there to receive them.

5. At about 1:30 p.m., the Informant and Rupesh reached Amala Bus Depot and met a lady who introduced herself as a make-up artist. She took both of them to Hotel Martin Inn, located near Amala Beach. There, they were introduced to a person

claiming to be a director, along with a cameraman. Both the Informant and Rupesh underwent make-up and participated in a video shoot at various locations including Amala Beach and a private bungalow. At around 3:45 p.m., they were taken to a cottage, where they were allegedly told to perform sexual acts on camera. Initially, both the Informant and Rupesh refused. However, they were reassured that the video was only for audition purposes and would not be made public. On that assurance, they agreed. The shooting went on from around 4:00 p.m. till 11:00 p.m. and they stayed overnight at the hotel.

6. On the following morning, around 10:00 a.m., the so-called director, cameraman, and make-up artist informed them that they would review the footage and get in touch later. The Informant and Rupesh were paid Rs.12,000/- for their work.

7. On 12th November 2023, at around 9:00 p.m., the Informant received a call from her brother, informing her that an obscene video involving her and a male was being circulated on online platforms. She immediately contacted Rupesh, and both of them attempted to reach out to the person who had earlier messaged her from number 7285051994. They pleaded with him to delete the said video. However, he refused outright. It is alleged that the applicant, along with others, under the pretext of an audition, recorded an explicit video and made it viral, thereby exploiting the Informant and Rupesh for monetary gain and immoral purpose.

8. Learned Advocate appearing for the applicant submitted that Accused No.1, who is alleged to have lured the victims into

performing the acts, has already been released on bail. The role attributed to the present applicant is limited to developing the application where the obscene videos were uploaded. It is also alleged that he financed the preparation of such videos. However, it is submitted that there is no material on record to show that the applicant was directly involved in the act of exploitation or had any connection with offences under Section 370 of the Bharatiya Nyaya Sanhita, 2023. It is further argued that the applicant stands on parity with Accused No.1 and therefore, deserves to be released on bail.

9. On the other hand, the learned APP has opposed the application and placed reliance on the statements of the victims, including their Section 164 Cr.P.C. statements, and other witness statements. It is submitted that the present applicant is the key person who funded the operations, arranged for the filming, and created the platform where such pornographic content was uploaded. According to the prosecution, the entire activity was carried out at the instance of the present applicant, and hence his role is graver and central to the commission of the offences.

10. I have considered the submissions advanced on behalf of the applicant and the learned APP for the State. I have also carefully gone through the material placed on record, including the FIR, statements recorded under Section 164 of the Cr.P.C., and the documents pertaining to the investigation.

11. It appears from the record that the investigation is substantially complete, and the charge sheet has already been

filed. The allegations against the applicant pertain primarily to his alleged role in providing financial support for production of obscene content and facilitating the creation or hosting of the application on which such videos were allegedly uploaded.

12. It is also to be noted that the principal accused, who is alleged to have lured the victims into participation and played an active role in inducing them to act, has already been released on bail. The role attributed to the present applicant appears to be secondary or technical in nature, based on digital and financial transactions, which will be tested during trial. Whether the applicant was actually aware of the manner in which such content was being created and whether he had constructive knowledge or intent to exploit the victims is a matter of trial and cannot be conclusively determined at this stage.

13. There is no serious apprehension placed on record by the prosecution to demonstrate that the applicant is likely to tamper with the evidence or influence the witnesses, particularly when the victims have already recorded their statements under Section 164 of the Cr.P.C.

14. The applicant is in custody since 18.11.2023. Considering the nature of allegations, the progress of investigation, parity with co-accused, and prolonged pre-trial detention, I am of the opinion that a case is made out for grant of regular bail, subject to appropriate conditions.

15. It is, however, clarified that the observations made herein are only for the purpose of deciding this bail application, and the trial

court shall not be influenced by any such observations while deciding the case on merits.

16. Hence, the following order is passed.

17. The applicant Mohammed Neyaj Mohammad Rais Alam @ B R Bhai @ M D Niyaj is directed to be released on bail in connection with Crime No. 389 of 2023, registered at Arnala Police Station, for offences punishable under Sections 420, 501, and 34 of the Indian Penal Code, 1860; Sections 66E, 67, and 67A of the Information Technology Act, 2000; and Sections 3, 4, and 6 of the Indecent Representation of Women (Prohibition) Act, upon furnishing a personal bond of Rs.50,000/- (Rupees Fifty 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 not tamper with the evidence or attempt to influence any witness.
- b) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- c) The applicant shall report to the Arnala Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.
- 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.

18. The bail application is disposed of in the aforesaid terms.

(AMIT BORKAR, J.)