

Shabnoor

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

BAIL APPLICATION NO. 2823 OF 2024

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Kiran Magan Karbhari	... Applicant
V/s.	
State of Maharashtra & Anr.	... Respondents

Mr. Avinash B. Avhad, for the applicant.

Mr. Sagar R. Agarkar, APP for the State – respondent.

Mr. H. B. Pawar, Mahatma Phule Chowk Police Station,
Kalyan.

CORAM : AMIT BORKAR, J.

DATED : JULY 3, 2025

P.C.:

1. The present application for bail has been filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks to be released on regular bail in connection with Crime Register No. 152 of 2024, which has been registered at Mahatma Phule Chowk Police Station. The applicant is facing prosecution for offences punishable under Sections 376(2)(n) and 420 of the Indian Penal Code, 1860.

2. The prosecution case, as stated in the First Information Report (FIR), is that the prosecutrix is a 23-year-old woman. She came into contact with the applicant around May 2022, and in due course, both developed a close friendship. According to the

prosecutrix, the applicant expressed a desire to engage in physical relations with her. However, the prosecutrix made her stand clear that she would agree to such a relationship only if the applicant intended to marry her. Upon this, the applicant gave her assurance that he would marry her after two years. Relying upon this promise of marriage, the prosecutrix states that in June 2022, the applicant took her to a lodge and had sexual intercourse with her for the first time. Thereafter, they continued physical relations on multiple occasions in different lodges and hotels.

3. The prosecutrix later discovered that the applicant was already a married man at the time of giving the promise of marriage. Feeling deceived and cheated by this false promise and the applicant's refusal to marry her, as well as the threats allegedly extended to her, she lodged a complaint at the police station. The applicant was arrested in the said crime, and his application for bail made before the learned Sessions Judge came to be rejected. Aggrieved thereby, the applicant has now approached this Court seeking bail.

4. Learned counsel appearing on behalf of the applicant submitted that even if the contents of the FIR and the statement of the prosecutrix are taken at face value, it is evident that no element of physical force, compulsion, or coercion has been alleged by the prosecutrix. It is argued that the relationship between the applicant and the prosecutrix, as narrated, continued for almost two years and that the prosecutrix had voluntarily accompanied the applicant on all such occasions. It is further submitted that the prosecutrix was aware of the nature of the

relationship and had also become aware at some point that the applicant was married, but despite that, the relationship continued. It is also pointed out that the applicant has been in custody since 7th February 2024, and the investigation has now concluded, with the charge-sheet having been filed before the competent Court. It is, therefore, urged that no further custodial interrogation is necessary, and the applicant may be enlarged on bail.

5. On the other hand, learned Additional Public Prosecutor has strongly opposed the application for bail. It is submitted that the offences alleged against the applicant are grave and serious in nature. The prosecutrix was misled into engaging in a physical relationship on the false assurance of marriage, when in fact the applicant was already legally married to another woman. This, according to the prosecution, amounts to deception and abuse of trust. It is submitted that allowing bail at this stage may send a wrong message and may affect the trial. Hence, it is prayed that the application for bail be rejected.

6. I have considered the submissions made by the learned counsel for the applicant as well as the learned Additional Public Prosecutor. I have also gone through the FIR, the statement of the prosecutrix under Section 164 of the Code of Criminal Procedure, and the material placed on record.

7. At this stage, it is important to note that the relationship between the applicant and the prosecutrix appears to have been consensual and continued over a period of nearly two years. The

prosecutrix, by her own statement, has admitted that she had accompanied the applicant voluntarily to various lodges and hotels. There is no allegation of any physical force or coercion having been used by the applicant.

8. The primary allegation is that the applicant gave a false promise of marriage to the prosecutrix despite being a married person. Whether such a promise was false from the very beginning or whether the prosecutrix had knowledge about the applicant's marital status at any point of time, are questions which would require appreciation of evidence at the time of trial. At the present stage, the materials placed before the Court do not prima facie indicate that the applicant misrepresented his marital status from the very beginning in a manner that would constitute a clear case of rape under Section 376(2)(n) IPC.

9. It is also relevant that the applicant has been in custody since 7th February 2024, and the investigation has been completed. The charge-sheet has already been filed. Therefore, no further custodial interrogation is required. The possibility of the applicant tampering with the evidence or threatening the witnesses can be taken care of by imposing suitable conditions.

10. In the facts and circumstances of the present case, and considering the nature of allegations, the period of custody undergone, and the completion of investigation, this Court is of the opinion that further incarceration of the applicant is not warranted at this stage.

11. In view of the above discussion, the following order is passed:

- (a) The Bail Application is allowed.
- (b) The applicant, shall be released on bail in connection with Crime Register No. 152 of 2024 registered with Mahatma Phule Chowk Police Station for offences under Sections 376(2)(n) and 420 of the IPC, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:
 - (c) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.
 - (d) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
 - (e) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.
 - (f) The applicant shall report to the Mahatma Phule Chowk Police Station on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.
 - (g) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.
 - (h) The applicant shall not commit any offence or engage

in any criminal activity during the pendency of the trial.

12. The Bail Application is accordingly disposed of in above terms.

(AMIT BORKAR, J.)