

Shabnoor

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

BAIL APPLICATION NO.3269 OF 2024

SHABNOOR
AYUB
PATHAN

Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2025.07.22
17:57:14 +0530

Sagar Sanjay Tirmale

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Raju Suryawanshi for the Applicant.

Mrs. Shilpa G. Talhar, aPP for the State – respondent No.1.

Mr. Viral Mukte, for the respondent No.2 (Appointed as Legal-Aid counsel).

CORAM : AMIT BORKAR, J.

DATED : JULY 22, 2025

P.C.:

1. The present application arises from a First Information Report (FIR) lodged by the mother of the victim. In the said complaint, it is specifically alleged that the applicant used to engage in chats with the victim under the guise of a brotherly relationship. However, as per the statement given by the victim, on 6th March 2024, at about 9:00 p.m., the applicant, the victim, and the applicant's wife were together. Thereafter, the victim remained in the company of the applicant. It is further alleged that on that night, the applicant committed sexual intercourse with the victim.

2. The learned Advocate appearing for the applicant submitted on 20th June 2025 that the relationship between the applicant and

the victim was consensual in nature. He further submitted that the mobile phone of the applicant, along with certain other articles, had been seized by the Investigating Officer during the course of investigation. However, despite such seizure, the said mobile phone was neither shown as a seized article in the charge sheet nor returned to the applicant. It was also submitted that the mobile phone of the victim was also seized. The Investigating Officer, who was present in Court on that day, categorically denied the aforesaid contentions. In view of this controversy regarding seizure of mobile phones, this Court had directed the applicant's brother to file an affidavit clarifying the factual position. Accordingly, an affidavit was filed by the applicant's brother, affirming that two mobile phones had been taken into possession by the Investigating Officer. Thereafter, by a specific order dated 4th July 2025, this Court directed API Pramod Ishwar Kadam to file a personal affidavit in respect of the applicant's claim regarding seizure of his mobile phone and cash.

3. Pursuant to the directions issued by this Court, the Investigating Officer has filed an affidavit stating that two mobile phones belonging to the applicant are indeed in his custody. It is further submitted that no objectionable messages or material were found during the forensic analysis of the said devices. However, it is also claimed that although the applicant and his brother were informed, they did not collect the mobile phones. Presently, both mobile phones remain in the safe custody of Nalasopara Police Station.

4. It is important to note that the Investigating Officer's affidavit, particularly paragraph 2.4, was filed only after the order dated 4th July 2025, wherein this Court had taken note of the fact that the applicant's mobile phone had not been returned. More importantly, no documentary proof has been annexed by the Investigating Officer to show that any amount of cash was returned to the applicant's brother, as claimed.

5. This sequence of events reveals an attempt on the part of the Investigating Officer to mislead this Court. Initially, a false statement was made suggesting that the applicant's mobile phones were not in the custody of the Investigating Officer. Now, in a clear volte-face, the officer is attempting to explain away his earlier false statement by saying that although the phones were received, they were not formally seized. Such conduct cannot be countenanced. Courts of law cannot permit such misleading statements by investigating officers. Any such attempt to mislead the Court amounts to an interference with the due course of justice and strikes at the very foundation of the rule of law and the purity of the administration of justice.

6. The Court is constrained to observe that such conduct by the Investigating Officer not only misleads the Court but also causes undue waste of valuable judicial time. Repeated hearings and passing of detailed orders on such avoidable issues hampers the progress of hundreds of bail matters that are pending consideration, in which personal liberty of accused persons is directly involved.

7. In the circumstances, the Commissioner of Police, Mira-Bhayandar Region, is hereby directed to appoint a senior officer of higher rank to conduct an independent and impartial enquiry into the conduct of Investigating Officer API Pramod Ishwar Kadam. A detailed report of such enquiry shall be submitted to this Court within a period of three weeks from today.
8. Further, in addition to the above direction, issue notice to the said Investigating Officer to show cause why proceedings under the Contempt of Courts Act, 1971 should not be initiated against him for knowingly making false and misleading statements before this Court.
9. The Investigating Officer shall file his affidavit in reply to the present show cause notice within a period of two weeks from today.
10. List the matter on 23rd July 2025 for further consideration.

(AMIT BORKAR, J.)