

Shabnoor

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

BAIL APPLICATION NO. 3328 OF 2024

Arvind Ramchandra Yadav	... Applicant
V/s.	
State of Maharashtra & Anr.	... Respondents

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Mr. Keshav Chavan, for the applicant.

Ms. Pallavi N. Dabholkar, APP for the State –
respondent.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2025

P.C.:

1. This is an application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No.1188 of 2022 registered at Santacruz Police Station. The applicant has been booked for offences punishable under Sections 376-D, 323, and 328 read with Section 34 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, on 20th November 2022 at around 10:00 a.m., the applicant along with co-accused allegedly approached the prosecutrix and asked her to accompany them. It is alleged that the applicant and co-accused Akshay brought a water bottle and a cold drink, and thereafter administered the said cold drink to the prosecutrix. The prosecutrix has stated that she was taken to a room where other co-accused were also present. Later, co-accused Dheeraj is stated to

have taken her to another place at Vile Parle, and on 21st November 2022 at around 10:30 a.m., all three accused—Akshay, Dheeraj and Nandlal (the present applicant)—allegedly committed forcible sexual intercourse with her. The FIR came to be lodged on 22nd November 2022 at around 1:00 p.m. The applicant came to be arrested on 28th November 2022. The application for bail moved by the applicant before the learned Sessions Court came to be rejected. Hence, the present bail application has been filed before this Court.

3. Learned advocate for the applicant submitted that the co-accused Akshay and Dheeraj, against whom similar allegations of rape are made by the prosecutrix, have already been granted bail—one by the Hon'ble Supreme Court and the other by the learned Sessions Court. It is submitted that the role attributed to the present applicant is on par with that of the said co-accused. Therefore, the applicant seeks benefit of the principle of parity. It is further submitted that the prosecution has cited as many as 49 witnesses, and the material witness, i.e., the prosecutrix, has already been examined before the trial court. The applicant is in custody since 28th November 2022, and considering the volume of prosecution witnesses and the pace of trial, there is no likelihood of early conclusion of trial. On these grounds, the learned advocate prayed that the applicant be released on bail.

4. On the other hand, learned APP has opposed the bail application and submitted that the role attributed to the present applicant is more serious as compared to the other two accused who have been granted bail. It is submitted that while the other

accused have only been attributed the act of sexual assault, the present applicant is alleged to have played an active role in administering an intoxicating substance to the prosecutrix by mixing it in the cold drink, and thereby facilitated the subsequent offence. Therefore, according to the learned APP, the applicant cannot claim parity. As regards the contention of delay in trial, it is submitted that although the prosecution had initially listed 46 witnesses, the actual number of witnesses to be examined may be much less and could be restricted to about 15, depending on the developments during trial. Hence, it is submitted that mere delay in trial cannot be a ground to release the applicant on bail.

5. I have considered the submissions advanced by both sides and perused the material placed on record. The prosecutrix has made serious allegations involving sexual assault and administration of intoxicating substance. The role attributed to the applicant is not identical, but comparable to the other co-accused who are now on bail. While it is alleged that the applicant had administered an intoxicating drink, the subsequent acts were allegedly committed jointly by all the accused. The issue whether the applicant's role is graver than that of the other co-accused is a matter that would be determined at the stage of trial based on evidence led before the Court.

6. It is not in dispute that the applicant has been in custody since 28th November 2022, and charges have been framed. The prosecutrix has been examined, and the prosecution has cited 49 witnesses, although it is stated by the learned APP that not all of them may be examined. Even then, considering the pace at which

trials proceed, especially in sensitive cases, it is unlikely that the trial will conclude in the immediate future. The right of the accused under Article 21 of the Constitution of India to have an expeditious trial cannot be overlooked.

7. The Supreme Court has emphasized that prolonged incarceration without possibility of early conclusion of trial would amount to denial of personal liberty. Moreover, when co-accused with comparable roles have been granted bail, the Court must maintain a balanced approach in exercising discretion under Section 439 of Cr.PC.

8. In these circumstances, and particularly in view of the prolonged pre-trial detention and the possibility of further delay in conclusion of the trial, I am of the opinion that the applicant deserves to be released on bail by imposing suitable conditions.

9. In view of the above discussion and legal position, 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. 1188 of 2022 registered with Santacruz Police Station for offences punishable under Sections 376-D, 323 and 328 read with 34 of 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 attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(d) The applicant shall report to the concern Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(e) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.

(f) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(g) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

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

(AMIT BORKAR, J.)