

Kishor

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3735 OF 2024

Nitish Nishikant Somvanshi

.. Applicant

Versus

The State of Maharashtra and Anr.

.. Respondents

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- Mr. Ayush Pasbola, Advocate for Applicant.
- Mrs. Rajeshree V. Newton, APP for Respondent-State.
- Mr. Pravin Murlidar Patil (Pairavi), PSI Sakinaka Police Station, Mumbai present.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 28, 2025

P. C.:

1. Heard Mr. Pasbola, learned Advocate for Applicant and Ms. Newton, learned APP for State.

2. Applicant - accused has filed the present Application for regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with Crime No. 344 of 2024 registered with Saki Naka Police Station for the offences punishable under Sections 376 and 509 of the Indian Penal Code, 1860 (for short, "**PIC**").

3. Briefly stated, facts of the case are that the first informant and the Applicant were known to each other since their first year of B. Com. while in college and their relationship eventually blossomed to

love in and around March 2022 after which they both frequently visited each other's home and the relationship was also accepted by both families. The Applicant also expressed intention to marry the informant. It is alleged by informant that in May 2023 and thereafter once again in October 2023 there were two incidents during which the Applicant forced her to having physical relationship and ravished her modesty against her wish. However, the FIR has been lodged much belatedly thereafter on dated 30th April 2024. In the interregnum their relationship strained and what is gathered from the material placed on record is that substantial demands were made by the first informant from the Applicant. *Prima facie* WhatsApp chats which are evident of what is stated therein and exchanged between them are appended as Exhibit-C from page No.81 onwards. The said chats speak for themselves. There are several demands which are *prima facie* been made by the Complainant which can be seen from the chats alongwith threats of not marrying the Applicant.

4. In view of the above *prima facie* material the allegation of the first informant of she having been forced into having a relationship cannot be accepted. That apart the promise of false marriage also gets diluted in view of the fact that admittedly the parties were not only known to each other but also expressed their desire to marry each other.

5. In view of the above, consensual relationship between the parties is *prima facie* established. The WhatsApp chats and messages exchanged between the parties however clearly dilute the case of the first informant. *Prima facie* it is seen that there are clear demands made by the first informant. Delay in filing the FIR is clearly evident.

6. In view of the above, present Application is allowed in terms of prayer clause (a) subject to the following terms and conditions:-

- (i)** Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii)** Applicant shall report to the Investigating Officer of concerned Police Station once every month on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first three months and thereafter as and when called;
- (iii)** Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for revocation of this order;
- (iv)** Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

- (v)** Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vi)** Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;
- (vii)** Any infraction of the above conditions shall entail revocation of this order.

7. It is clarified that the observations in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case.

8. In view of the above directions, Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]

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