

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3924 OF 2024

Sushant Alias Sai Bhagat

.. Applicant

Versus

State Of Maharashtra And Anr.

.. Respondents

.....

- Mr. Chaitanya B. Nikte a/w Mr. Prajit S. Sahane, Mr. Santosh Bhawar i/b Mr. Santosh Bhawar and Ms. Darshana Yeram, for Applicant.
- Mr. Mayur S. Sonavane, APP for State.
- Mr. Jadhav, PI, Gorai Police Station, Mumbai.

.....

CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 13, 2025

P.C.:

1. Heard Mr. Nikte, learned Advocate for Applicant and Mr. Sonavane, learned APP for the Respondent-State.

2. By the present Application Applicant seeks regular Bail. Applicant is indicted in jail in connection with C.R. No. 19 of 2024 registered with Gorai Police Station, District Mumbai for the offences punishable under Sections 354-C, 376(2)(n), 406, 420, 501, 506 of Indian Penal Code, 1860 and under Section 66 (E) of the Information Technology Act, 2000 on 07.05.2024. The date of commission of crime is from 15.05.2023 to 01.01.2024 as stated in the FIR which is lodged by the complainant on 07.05.2024.

3. At the outset, after hearing Mr. Nikte, learned Advocate for Applicant as also Mr. Sonavane, learned APP for the State, a fact has been revealed in respect of which material is placed before the Court that even in March, 2024 the Applicant and the complainant visited Matoshree Resort and River Park. The receipt of such visit is taken on record and marked as “X” for identification.

4. Applicant and complainant are almost of the same age. Applicant is one year older than the complainant. Both met on Instagram App sometime in the early part of 2023 and interacted each other. Due to their association on the said App, they started meeting each other and as stated in the FIR on 15.05.2023 they both went for a trip to Manorigaon Malad (E) and hived in a hotel room by giving details of their Aadhar Cards and thereafter had physical intimacy and physical relations. It is alleged in the FIR that on that date itself the Applicant clicked compromising photographs of the Complainant and threatened her of making them viral if she disclosed what happened between them. It is thereafter stated in the FIR that despite the above incident the Complainant continued her relationship with Applicant without disclosing the aforesaid incident.

5. Thereafter in September, 2023 Applicant and Complainant once again visited the same hotel room in Manorigaon, Malad (E) and had physical relations. It is thereafter alleged by Complainant that

Applicant promised that he would marry her. It is stated in the FIR that thereafter Complainant met Applicant in October, 2023, November, 2023 and upto January, 2024 on various occasions in the same hotel in Manorigaon, Malad (E) and they both had physical intimacy and physical relations.

6. It is thereafter stated by Complainant herself that in September, 2023 family members of Complainant came to know about their love relationship and advised her not to keep any relations with Applicant. Despite this fact noted by Complainant herself, she categorically stated that even thereafter in October, 2023 November, 2023 and upto January, 2024 she met the Applicant on various occasions and kept physical relations with him. Thereafter, Complainant has alleged that despite the above incidents in January, 2024 since Applicant required money for repair of his auto rickshaw, she on his insistence wanted to help him and gave him some gold ornaments which belonged to her sister. This theory and allegation of Complainant has been denied by Applicant.

7. Thereafter Complainant stated that on 03.03.2024, at about 10.00 pm in the night the Applicant met her and took her to his house when she realized that he was married. However a shocking revelation is made by the Complainant that she stayed with the Applicant in his house for 5 days at that stage.

8. Thereafter Complainant stated about the incident dated 08.03.2024 when her parents summoned the Applicant and Complainant both to the Police Station. At this stage, it needs to be noted that the incident on 07.03.2024 of Applicant and Complainant having visited Matoshree Resort and River Park is not stated in the FIR by Complainant. It is seen that on 08.03.2024 complainant returned back to her house and thereafter subsequently lodged FIR on 07.05.2024.

9. Insofar as the Applicant before me is concerned, he is already married and he is having two children aged three years and one year. Statement of his wife has been recorded by the Investigating Officer on 28.05.2024. Statement of other witnesses have also been recorded by the Investigating Officer. Mr. Nikte, learned Advocate for the applicant made two submissions on the basis of the aforesaid facts before me. Firstly, Mr. Nikte would submit that the complaint filed by the Complainant is after an undue delay of time and the aforesaid timeline is evident of the fact that Complainant being an adult was in a consensual physical relationship with Applicant. Insofar as the issue of denying her trust is concerned it would be a matter of trial since there is no evidence *prima facie* placed on record to prove that the Complainant deposited any gold ornaments belonging to her sister with the Applicant. He would next submit that three year daughter of

the Applicant is unwell and in support thereof he would place on record Widal Slide Test report of one Siddhivinayak Pathology dated 06.01.2025. Report shows positive test result of the three year old daughter of Applicant as suffering from Typhoid and immediate steps are taken to admit her in the hospital. He would submit that wife of Applicant is presently providing care and support to both children i.e. the three year old daughter and one year old son.

10. Mr. Sonavane, learned APP for the State would submit that case of Complainant is clearly evident from her complaint and prosecution has recorded written statements of all concerned persons including sister of Complainant and other family members of Applicant himself, including his wife. He would submit that investigation is underway for ascertaining the issue involving in regard to the gold ornaments which were given by Complainant to Applicant in January, 2024. He would submit that admittedly the gold ornaments belonged to sister of Applicant and as they were old gold ornaments having no receipts, no proof can be placed before the court. He would submit that in view of the fact that there is a clear case made out by Complainant that she was kept in the dark by the Applicant, the Applicant does not deserve to be released on bail.

11. I have considered the rival submissions of the learned Advocates on both counts, that is on merits as also on the medical

emergency / exigency expressed by the Applicant. Though on the issue of urgency, this Court cannot be harsh and reject the Application made by the Applicant, in the facts of the present case, I am inclined to consider the same. The Applicant is having two children, viz a three year daughter and one year son and he is the only bread winner of his family. It is seen that Applicant is an auto rickshaw driver. His wife is providing care and support to his two children. As against this another reason I am also inclined to consider is the fact that relationship between Complainant and Applicant before filing of complaint on 07.05.2024 dated back for more than 12 months in point of time. It is Complainant's own case that from 15.05.2023 onwards she and Applicant visited several places and kept physical relations. Her complaint when read as a whole does not give all the details of their visits but clearly states that both of them met on several occasions and kept physical relations. The complainant is of the age at which she would know the import of her actions. On reading of the complaint it is clearly seen that she was in the knowhow of all her actions when she repeatedly met the Applicant at various places as delineated hereinabove. In that view of the matter the consensual relationship between the Complainant and Applicant being established *prima facie* and in view of the medical emergency / exigency expressed by the Applicant on both grounds I am inclined to grant bail to the Applicant.

12. Hence the following order:-

- (i) Applicant – Sushant Alias Sai Bhagat, in connection with C.R. No. 19 of 2024 for registered with Gorai Police Station, District Mumbai for the offences punishable under Sections 354-C, 376(2)(n), 406, 420, 501, 506 of Indian Penal Code, 1860 and under Section 66 (E) of the Information Technology Act, 2000 is ordered to be released on bail on furnishing P.B. and S.B. in the sum of Rs. 25,000/- (Rs. Twenty Five Thousand Only) with one or two sureties to the like amount;
- (ii) Applicant shall report to the concerned I.O. or Police Station, once every month on the first Monday of the month between 10.00 a.m. to 12:00 p.m.;
- (iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted;
- (iv) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (v) Applicant shall not influence 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, as applicable;

(vii) Applicant shall not misuse his liberty in any manner or to influence the witnesses in any way; and

(viii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

13. Bail Application is allowed and disposed.