

Nikita

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

BAIL APPLICATION NO.3933 OF 2024

NIKITA
KAILAS
DARADE
ADVOCATE GENERAL
DISTRICT COURT
MUMBAI-400 001
20.02.21 +91930

Roshan Naresh @ Narendra Jadhav ... Applicant

V/s.

The State of Maharashtra and Anr. ... Respondent

Mr. Karan Rajput a/w Anukul Seth a/w F. Shaikh a/w
Mr. Mahaveer Lohar for the Applicant.

Mr. T. G. Khan, APP for the State.

Ms. Komal Gopal Singh, Legal Aid Counsel for
Respondent No.2.

Mr. Ganesh Pawar, PSI Mahad City Police Station,
Raigad.

CORAM : ASHWIN D. BHOBE, J.

DATED : 25th JUNE, 2025

P.C.:

1. Heard Mr.Karan Rajput, learned Advocate for the Applicant.
Mr. T. G. Khan, learned APP for the State and Ms. Komal Gopal
Singh, learned Advocate for the Respondent No.2.

2. By the present application filed under Section 439 of the
Code of Criminal Procedure, 1973, Applicant is seeking bail in
connection with C. R. No.271 of 2023 registered with Mahad City
Police Station, Dist. Raigad for the offences punishable under
Sections 376(2)(1), 452, 354, 354-A(1), 354-(B) and 504 of the

Indian Penal Code, 1860.

3. Present crime is registered on the basis of the complaint made by the mother (informant) of the prosecutrix.

4. Applicant was arrested on 03.12.2023, since then the Applicant is in jail. Applicant had sought for bail on two occasions. Said bail applications filed by the Applicant were rejected by the Additional Sessions Judge, Mangaon, Raigad on 14.02.2024 and thereafter on 21.06.2024.

5. Case of the prosecution is that on 30.11.2023, the prosecutrix told the informant, of she being sexually assaulted by the Applicant. The assault was of sexual penetration. On the basis of the information, the above said crime was registered against the Applicant.

6. Mr. Karan Rajput, learned Advocate for the Applicant submits that the Applicant has been falsely implicated in the crime. He submits that the relation of the Applicant with the prosecutrix was friendly and they had a love affair. He submits that the crime has been registered at the instance and under pressure of the mother of the prosecutrix. He submits that the allegations of sexual penetration assault as alleged by the prosecutrix on 29.11.2023, is not supported by any evidence. He submits that the medical opinion does not support the prosecution case. He submits that the Applicant does not have any criminal antecedents.

7. Mr. T. G. Khan, learned APP for the State, submits that, the Applicant has taken advantage of a lonely women. He relies on the statement of the prosecutrix recorded under Section 164 of Cr. P.C.

wherein the prosecutrix has narrated the entire act to the Applicant. He submits that the investigation, chargesheet is filed, however, charge is not framed till date.

8. Ms. Komal Singh, learned Advocate for the Respondent No.2 (mother of the prosecutrix) submits that the prosecutrix is having disabilities. She submits that the prosecutrix treated the Applicant as a brother. She submits that the Applicant was given a key of the flat by the prosecutrix as such the Applicant had free access to the said flat. She submits that the Applicant has misused the liberties given by the prosecutrix and has committed the said act. She submits that the act of the Applicant was not consensual but a forced act upon the prosecutrix. She, therefore, opposes the bail.

9. I have perused the record with the able assistance of learned Advocates for the parties.

10. Allegations made against the Applicant are that the Applicant had sexually assaulted the prosecutrix by entering the flat of the prosecutrix. Allegations are that the prosecutrix was sexually assaulted in the bathroom. Medical examination of the prosecutrix conducted does not support the prosecution case with reference to the sexual penetrative assault on the prosecutrix. Investigation does not indicate the prosecutrix having raised any alarm either prior to the alleged sexual assault or after the assault as alleged.

11. Material on record and the nature of allegation against the Applicant, *prima facie* does not support the prosecution case against the Applicant. There are no compelling circumstances to

justify the custody of the Applicant till the conclusion of trial. Investigation is complete and the charge-sheet is filed. Applicant does not have any criminal antecedents. Possibility of Applicant absconding are remote. Applicant is therefore, entitled to bail.

12. In view of the above, the present Bail Application is allowed, on the following conditions:

- a) Applicant is directed to be released on bail in connection with C. R. No.271 of 2023 registered with Mahad City Police Station, Dist. Raigad, on his furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of Additional Sessions Judge Mangaon, Raigad.
- b) Applicant shall attend and regularly appear before the Additional Sessions Judge, Mangaon, Raigad in Sessions Case No.04 of 2024, each date of hearing, unless specifically exempted by the Court.
- c) Applicant shall not contact the prosecutrix /victim or enter the block where the prosecutrix / victim resides till the conclusion of the trial.
- d) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing the facts to the Court or any police officer and should not tamper with evidence.
- e) Applicant upon release, within 3 days shall furnish to

the Investigation Officer, Mahad City Police Station, Dist. Raigad his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.

f) Applicant shall be released on provisional cash bail in lieu of surety. Mr. Karan Rajput, learned Advocate for the Applicant, undertakes to comply with the surety within two weeks from the date of release of the Applicant.

13. The Bail Application No. 3933 of 2024 is allowed in the above said terms.

(ASHWIN D. BHOBE. J.)