

Shabnoor

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

BAIL APPLICATION NO.4063 OF 2024

Nawaju Karim Shaikh	... Applicant
V/s.	
The State of Maharashtra	... Respondent

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Ms. Sana Shaikh for the applicant.

Ms. Megha Bajoria, APP for the State – respondent.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 4, 2025

P.C.:

1. By the instant bail application filed under Section 439 of the Criminal Procedure Code, 1973 (“Cr.P.C.” for short), the applicant seeks his release on regular bail in connection with Crime Register No.531 of 2023 registered with CSMT Railway Police Station. The offences alleged against him are punishable under Sections 376(1), 354, 354-A, 354-B, 354-D, 509, 323, and 504 of the Indian Penal Code.

2. The case of the prosecution is that the incident took place on 14th June 2023 at about 7:30 a.m. in a local train running from CSMT to Panvel. The victim, a 20-year-old college-going girl, was travelling in the ladies’ compartment. At CSMT station, an unknown man entered the compartment. When the victim objected, he ignored her and allegedly behaved indecently. The prosecution alleges that he exposed himself, abused her in filthy

language, and assaulted her. In the scuffle, her mobile phone fell down. She pushed him away, but he again came near her, pulled her pants down and committed digital penetration by fingering her vagina. At Masjid Bunder railway station, the accused alighted from the ladies' compartment, after which the victim also got down and shifted to a general compartment. Based on her complaint, the FIR came to be registered against the unknown person.

3. The learned Advocate for the applicant argued that he has been falsely implicated in the present case. It is contended that the FIR was initially against an unknown person. The victim and her relatives did not give consent for her medical examination, and therefore, there is no medical evidence to support the allegation of penetrative sexual assault. It is further submitted that the CCTV footage shows the applicant at Platforms 3 and 4 between 7:18 p.m. and 7:20 p.m., whereas the incident allegedly took place at Platform 1. The medical report also does not disclose any injuries.

4. It is further submitted that the applicant has been in custody since 14th June 2023 and more than one year has passed. The charge-sheet is filed, and the trial is not likely to conclude in the near future since the prosecution has cited 21 witnesses. Therefore, the continued incarceration of the applicant would serve no purpose, and he deserves to be released on bail.

5. Per contra, the learned APP opposed the bail application. It is submitted that the applicant was traced the very same day with the help of CCTV footage of the railway station. When the footage

was shown to the victim, she identified the applicant as the person who committed the offence in the moving train. The prosecution also relies on the seizure panchnama, which shows that the applicant alighted at Masjid Bunder railway station and thereafter boarded another train from a different platform. The statement of the victim is categorical about molestation and digital penetration inside the ladies' compartment. This version is further corroborated by the statement of an independent witness, which has been recorded under Section 164 of Cr.PC.

6. The learned APP further submitted that the witness fully supports the victim's version. The victim is a young girl of 20 years and a student. The offence is of serious nature and has been committed in a public place, thereby raising concerns regarding the safety of women travelling by local trains. The CCTV footage clearly shows the applicant alighting from the ladies' compartment and then getting down at Masjid Bunder station at Platform No.2, followed by boarding another train. The time shown in the CCTV matches the time required to travel from CSMT to Masjid Bunder. Soon after, the victim is seen on the platform at around 7:26 to 7:27 a.m. making gestures of distress. Thus, the prosecution submits that there is strong material to connect the applicant with the offence, and given the seriousness of the allegations, he does not deserve to be released on bail.

7. I have carefully considered the rival submissions, the nature of the allegations, and the material placed on record. At this stage, it is well settled that while deciding a bail application, the Court is not expected to conduct a mini trial or evaluate the evidence as if

it were finally adjudicating the matter. The Court has to broadly assess whether there exists a prima facie case against the applicant, the seriousness of the allegations, and the possibility of the accused tampering with evidence or influencing witnesses.

8. The allegations in the present case are of grave and serious nature. The victim, a young student of 20 years, has clearly narrated the incident. Her statement discloses that the applicant not only misbehaved with her and used filthy language, but also went to the extent of pulling down her pant and committing digital penetration. The victim's statement is consistent and has been corroborated by the statement of an independent witness recorded under Section 164 of the Cr.P.C. Such corroboration at the initial stage lends credibility to the prosecution case.

9. The CCTV footage relied upon by the prosecution further strengthens the case. The footage shows the movement of the applicant, his alighting from the ladies' compartment, and thereafter boarding another train from a different platform at Masjid Bunder station. The timing of the footage corresponds with the time of travel from CSMT to Masjid Bunder. Immediately thereafter, the victim is seen on the platform in a disturbed state. These circumstances prima facie establish the presence and involvement of the applicant in the incident.

10. The contention of the learned Advocate for the applicant that there is no medical evidence does not carry much weight at this stage. In offences of sexual assault, especially when the medical examination is not carried out for want of consent, the testimony

of the victim assumes great significance. It is settled law that the sole testimony of the victim, if found credible, is sufficient to sustain the charge of sexual assault. In the present case, the victim's version is not only consistent but also supported by other material on record.

11. The gravity of the offence cannot be overlooked. The incident has occurred in a ladies' compartment of a suburban train during peak hours, which is a public place. Such acts raise serious concerns regarding the safety and security of women commuters, and releasing the applicant on bail at this stage may send a wrong signal to society. The legislature has treated offences under Sections 376 and 354 series of IPC as heinous and has provided for stringent punishment.

12. It is true that the applicant is in custody since 14th June 2023 and the trial may take some time to conclude. However, when weighed against the seriousness of the allegations, the manner in which the offence is committed, and the corroborative material available, this Court is of the opinion that the applicant does not deserve to be released on bail at this stage. The apprehension of the prosecution that he may tamper with evidence or influence witnesses also cannot be ruled out, considering that the victim and independent witnesses are yet to be examined.

13. In view of the above discussion, and having regard to the totality of circumstances, I am not inclined to exercise discretion in favour of the applicant.

14. The bail application therefore stands rejected.

(AMIT BORKAR, J.)