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

BAIL APPLICATION NO.4270 OF 2024

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Soma Sundaram Mayavan Arjun

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Karan Vishwajit Mertia with Prajakta Prakash
Tawde i/by Tanveer Faruqui for the applicant.

Ms. Rajashree V. Newton, APP for the State.

Mr. Tukaram M., PSI, Aarey Police Station, Mumbai is
present.

CORAM : AMIT BORKAR, J.

DATED : JULY 16, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant seeks regular bail in connection with Crime No.50 of 2023 registered with Aarey Police Station for offences punishable under Sections 376, 452, 354, 354(B), 354(D), and 509 of the Indian Penal Code, 1860.

2. The brief facts of the prosecution case are as follows: The complainant resides with her family, which consists of her husband Kolanjiappan, aged 42 years, her son Abishek, aged 18 years, and her daughter Ku Abinaya, aged 16 years. It is stated that the complainant has been physically handicapped for the past four years and is unable to walk without assistance.

3. It is the prosecution's allegation that the applicant, one Somu, aged 45 years, had recently shifted to the neighbourhood of the complainant. In the month of November 2022, the applicant allegedly stopped near the complainant's residence and made an inappropriate proposition to her by saying, "*Main tumhe dus hazar mere personal kaam ke liye de dunga, mere paas aati hai kya?*" The complainant did not respond to the said remark to avoid confrontation, and instead narrated the incident to her relative, Laxmi, who advised her not to speak further about it. Despite this, it is alleged that the applicant visited the doorstep of the complainant on two more occasions.

4. It is further alleged that on 23rd February 2023, at about 4:30 p.m., the complainant was alone at her residence. Her husband was at his workplace, and both children were at school. At that time, the applicant allegedly entered the complainant's house without any permission. Upon noticing his entry, the complainant asked him to leave, but he forcefully trespassed into the house.

5. It is alleged that the complainant questioned the applicant about his presence, whereupon he took out a glass bottle and began sprinkling water inside the house. When the complainant objected, he claimed that it was "*god's water.*" On being further asked to leave, he is said to have placed the bottle on the floor, pushed the complainant to the ground, and attempted to sexually assault her.

6. Learned advocate appearing for the applicant has drawn

attention to the first statement of the prosecutrix recorded on 23rd February 2023. It is submitted that the initial allegations made out an offence pertaining to outraging of modesty, for which an FIR was lodged under Sections 452, 354, 354(B), and 354(D) of the Indian Penal Code, 1860. Pursuant to the said FIR, the applicant was granted bail. However, it is pointed out that after a lapse of more than two months, the prosecutrix gave a supplementary statement on 1st May 2023, wherein she introduced allegations of rape, thereby invoking Section 376 of the Indian Penal Code. Learned counsel, therefore, submitted that the fresh allegations made in the supplementary statement are inconsistent with the earlier version and amount to a substantial alteration of the original incident. He further contends that there are no criminal antecedents against the applicant, and since he has been in custody since 23rd July 2023, he may be released on bail.

7. On the other hand, the learned APP has opposed the grant of bail. She submitted that the victim is a physically handicapped woman and vulnerable by her very condition. It is further submitted that the supplementary statement made by the prosecutrix discloses a more serious offence, and a prima facie case is made out for the offence of rape. She, therefore, prayed for rejection of the bail application, considering the nature of allegations and the physical condition of the victim.

8. I have carefully considered the submissions made by the learned counsel for the applicant and the learned APP for the State. I have also perused the original FIR, the supplementary statement of the prosecutrix, and the material placed on record.

9. It is not in dispute that the initial FIR was registered on the basis of the incident dated 23rd February 2023, and the offences alleged therein pertained to house trespass and outraging of modesty under Sections 452, 354, 354(B), and 354(D) of the Indian Penal Code. The applicant was granted bail in that case. However, after more than two months, the prosecutrix gave a supplementary statement dated 1st May 2023 alleging that the applicant committed rape during the same incident. This supplementary statement introduces new facts which were not mentioned in the original version of the incident.

10. In such a situation, it becomes necessary for the Court to take into account the delay in making serious allegations of rape and the material inconsistencies in the two versions given by the same prosecutrix. It is also pertinent to note that no medical examination was conducted contemporaneously which could have supported the fresh allegation of rape made at a belated stage. Though delay alone cannot be the sole ground to discard a statement, where the initial version is materially silent on such a serious charge, and such charge is added much later without cogent explanation, it becomes a matter of concern requiring deeper scrutiny at the stage of trial.

11. The applicant is in custody since 23rd July 2023. There is no material placed on record to suggest that he has misused the liberty granted to him earlier or that he has tried to influence the witnesses. There are no criminal antecedents to his discredit. Investigation is already complete, and charge-sheet has been filed. The trial is not likely to commence in the immediate future.

12. In view of the above circumstances, and without going into the merits of the rival contentions or expressing any opinion on the truthfulness or falsity of the allegations, I am of the opinion that this is a fit case for grant of regular bail, subject to suitable conditions to ensure that the applicant does not tamper with the prosecution evidence or attempt to influence the victim or witnesses.

13. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Soma Sundaram Mayavan Arjun is directed to be released on regular bail in connection with Crime No.50 of 2023 registered with Aarey Police Station for offences punishable under Sections 376, 452, 354, 354(B), 354(D), and 509 of the Indian Penal Code, 1860, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - a) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
 - b) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - c) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
 - d) The applicant shall not leave the territorial jurisdiction

of the Trial Court without prior permission.

e) The applicant shall not indulge in any criminal activity during the pendency of the trial.

f) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)