

Ajay

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

**CRIMINAL BAIL APPLICATION NO. 4281 OF 2024**

Dipesh Dipak More

.. Appellant

**Versus**

The State of Maharashtra

.. Respondent

- .....
- Mr. Arun Rajput a/w Mr. Viral Mukte i/by Mr. Pankaj Jadhav, Advocates for Applicant.
  - Mr. Hitendra Dedhia, APP for Respondent No.1 – State.
  - Ms. Preshita Parab, Appointed Advocate for Respondent No. 2.
- .....

**CORAM : MILIND N. JADHAV, J.**

**DATE : APRIL 1, 2025.**

**P.C.:**

**1.** Heard Mr. Rajput a/w Mr. Mukte i/by Mr. Jadhav, Advocates for Applicant, Mr. Dedhia learned APP for Respondent – State of Maharashtra and Ms. Parab, learned Appointed Advocate for Respondent No.2.

**2.** This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C**') seeking regular Bail in connection with C.R. 144 of 2024 registered with NayaNagar Police Station for offenses under Sections 376(2)(n) and 506 of the Indian Penal Code, 1860 (for short '**IPC**') and Sections 67 and 67(a) of the Information Technology (Amendment) Act, 2008.

**3.** The Applicant is indicted in an offense under Section 376 of IPC

by FIR dtd. 2.03.2024. Applicant was 24 years old and Prosecutrix was 25 years old at the time of alleged incidents. Applicant first met the prosecutrix on social media website i.e. Facebook in March 2023. She has stated that during her school years she was acquainted with Applicant as both of them were classmates having studied together from class 5 to class 10 in the same class. Then their friendship got renewed in March 2023. That thereafter on 16.10.2023 Applicant called the prosecutrix on her mobile phone to meet him at Mira Road. She went to meet him, spent sometime roaming with him in Mira Road where after Applicant took her to Srinidhi Lodge at Mira Road where they both had a physical encounter. Thereafter it is alleged that on 01.11.2023 Applicant called her to meet him at Mira Road which she initially refused but on his threat to viral her compromising photographs, she went to meet him. She has stated that when she confronted Applicant about the photographs he threatened her and forced her to have physical relationship with him. Thereafter between 26.11.2023 and 27.11.2023 the prosecutrix's husband and mother-in-law received several text messages, emails and photographs of the prosecutrix and Applicant on their mobile phones, email accounts and whatsapp. When they attempted to inquire, they received no answer. She has stated that on inquiring about the same with her, she informed them that she was having an affair with Applicant and had physical relationship twice with him. Thereafter on 28.12.2023

prosecutrix's husband received a message on Instagram asking him whether he knew Vitthal Bhatuse, Yoghesh Dharane and Tushar Rane. When her husband inquired about them the Applicant informed him that prosecutrix had taken Rs. 50,000 from Vithal Bhatuse. He also sent to him a screenshot of the chat confirming the above fact with Vitthal Bhatuse. When prosecutrix was asked about the same she informed her husband that Vithal Bhatuse had proposed marriage to her and she had rejected him before marrying her current husband. Due to the above incidents prosecutrix along with her husband approached the Cyber cell for lodging the complaint however FIR is lodged on 2.03.2024 and Applicant is arrested on 29.03.2024.

**4.** Learned Advocate for the Applicant would submit that the statement of the prosecutrix that she and Applicant studied in the same school is *prima facie* false on the face of record rather it is a white lie. From persual of the charge sheet wherein the school leaving certificates of both have been annexed it is seen that both Applicant and prosecutrix studied in different schools. I have perused the same and it is *prima facie* evident.

**5.** Next he would submit that in the FIR prosecutrix states that she met the Applicant on 16.10.2023 for the first time and accompanied him to the lodge and had physical relation with him. However, according to him the relationship was consensual as they got

married to each other and prosecutrix has suppressed material facts. He has drawn my attention to three subsequent statements of the prosecutrix which are appended on record namely statements dtd. 20.02.2024, 02.03.2024 and 24.03.2024. In the third statement she has stated that she was not aware about the exact date and place of the first incident whereas in the third statement she has stated that the first incident was on 12.09.2023 in a hotel called Sai Royal Palace, thus, contradicting her own statement in the FIR and also her previous statements dtd. 20.02.2024 and 02.03.2024. In this very statement she has for the first time stated that she along with Applicant visited a lodge in Dadar but no investigation has been done in that regard by the prosecution. He would submit that the statement of the Manager of Sai Royal Palace lodge, appended at page No. 143, show that Applicant and prosecutrix both had on 12.09.2023 got themselves booked in Room No. 103 as per the hotel register on the basis of their Aadhar card, a fact which is not stated in the FIR. That apart prosecutrix conducted herself on the basis of her maiden name until she got married to Applicant by suppressing her past and duped him of money and took away all jewelry. This itself shows the falsity of the First Informant – prosecutrix's case.

**6.** Hence he would submit that the Applicant deserves to be granted bail because the relationship between the Applicant and

prosecutrix was indeed consensual in nature. He has also referred to the text messages in charge sheet which *prima facie* corroborate the consensual nature of relationship between them.

**7.** Learned Appointed Advocate and the learned Prosecutor have both opposed grant of bail on the ground that the prosecutrix has been wronged by the Applicant. Both the learned Advocates would pursue the court to consider the act of the Applicant as a serious transgression of outraging the modesty of the prosecutrix and reject the Application. However on the case investigated by the prosecution regarding suppression of the past conduct by prosecutrix, her marriage supported by documentary evidence the various outings of the prosecutrix with Applicant , there is no submission.

**8.** I have heard the learned advocates at the Bar and with their able assistance perused the record of the case. The present case presents very bizarre facts which are *prima facie* evident from the face of record. The statement of the prosecutrix in the FIR and what she has stated therein about the incidents is *prima facie* contradictory to the investigation carried out by the Prosecution, rather it is extremely shocking. Case presented by the prosecutrix is full of absurdities and infirmities. At the outset the statement of prosecutrix that she and Applicant studied in the same school which led to their acquaintance later on is a false assertion. *Prima facie* documentary evidence of their

school details show that the alleged case of prosecutrix is false on the face of record. These documents are unearthed by the prosecution during investigation. Next the most shocking fact investigated by the prosecution is that the prosecutrix and Applicant got married on 18.11.2023 after they got acquainted with each-other on Facebook. Their marriage certificate copy is appended at page No. 205 of the Application. Shockingly despite having being married earlier she impersonated as being unmarried and got married to Applicant on the basis of her maiden name. She also notarized an affidavit embracing Buddhism and changed her name on 16.11.2023. Thereafter she and Applicant got married on 18.11.2023 and thereafter they both have signed a declaration of marriage appended at page No. 212 for seeking a marriage certificate in the presence of their Advocates, two witnesses and notary public. That apart prosecution has also investigated and placed on record the details of the various trips made by prosecutrix to hotel Royal Palace in Mira Road where on 12.09.2023 the Applicant had stayed with the prosecutrix in Room No. 103. Once it is *prima facie* seen that case of the prosecutrix is contrary the prosecution evidence on the face of record, then the case of the Applicant deserves to be considered. The trial will ultimately determine the complicity and offense. *Prima facie* from the aforesaid facts, it is seen that relationship between the parties was consensual. Prosecutrix is one year older than the Applicant. *Prima facie* she has full knowledge of

the import of her actions. Once the investigation is completed in such a case, further custody of the Applicant is not required and the Applicant can be released on bail.

**9.** In view of the above, Bail Application stands allowed on the following terms and conditions:-

(i) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties of the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

(iii) Applicant shall report to the Investigating Officer at the concerned Police Station as and when called by the Investigating Officer;

(iv) 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 cancellation of this order;

(v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vi) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vii) 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;

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

**10.** It is clarified that the above observations in this order are limited for the purpose of granting bail only and I have not made any observations on the merits of the case and the trial shall proceed uninfluenced by the present order.

**11.** Fees of the learned Advocate Ms. Parab, learned Advocate appointed through Legal Aid to represent and espouse the cause of Respondent No.2 shall be released by the Registry of this Court within a period of one week from the date of presentation of a server copy of this order on compliance.

**12.** Bail Application is allowed and disposed.

[ MILIND N. JADHAV, J. ]

Ajay

Digitally signed  
by RAVINDRA  
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AMBERKAR  
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