

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.4451 OF 2024

Dilawar Gulmahmad Makrani

.. Applicant

Versus

The State of Maharashtra

.. Respondent

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- Mr. Dhawal Parmar, Advocate i/by Ms. Tripti Shetty for Applicant.
- Ms. Mahalaxmi Ganpathy, APP for Respondent – State of Maharashtra.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 03, 2025

P.C.:

- 1.** Mentioned out of turn at the time of rising.
- 2.** Heard Mr. Parmar, learned Advocate for Applicant and Ms. Ganpathy, learned APP for Respondent – State of Maharashtra.
- 3.** Mr. Parmar persuades the Court to consider the Application in view of certain important development. He appears for the Applicant. Ms. Ganpathy, learned APP appears for Respondent – State of Maharashtra. Applicant seeks grant of regular bail. Mr. Parmar would submit that the original Complainant does not have any objection for the Applicant to be released on bail. He would inform the Court that the original Complainant herself filed her Affidavit before the Sessions Court which is part of record stating that she has no objection.

4. *Prima facie*, it is seen that even though it may be the contention of the Applicant that the Complainant has filed such Affidavit, offence for which Applicant has been held is committed under Sections 376, 376(2)(n), 506 of Indian Penal Code, 1860 (for short '**IPC**'). In that view of the matter, Ms. Ganpathy would point out that the facts of the case being serious as also, the commission of offence, this Court will have to examine the details. At this stage, Mr. Parmar would only request the Court to consider impleading the original Complainant as party to the present Bail Application.

5. I have perused the record of the case before passing this order. Though Mr. Parmar would submit that the Complainant be impleaded, *prima facie* I do not find the need to do so at present since I desire to hear the Applicant on merits of the matter first. In view of the peculiar facts of the case that the Complainant's parents have died 12 years ago, she is suffering from tuberculosis, she is physically very weak and most importantly she lives alone, she having suffered the above trauma and the charge-sheet having being filed against Applicant for the offence, the request made by Applicant is declined. Though it is recorded in paragraph No.4 of the order dated 23.02.2024 that the matter is now settled between the parties and therefore the Applicant should be granted bail and further the same submission is made even today, nothing prevents the Applicant in that case to take appropriate steps as available to him in law. This is a Bail Application.

Complainant has already undergone the aforesaid trauma and hence I propose to hear the Applicant on merits and only thereafter consider his request for issuance of notice to Complainant.

6. Stand over to **24th January, 2025.**

H. H. SAWANT

[MILIND N. JADHAV, J.]

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