

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4451 OF 2024

Dilawar Gulmahamad Makrani

Applicant

.. (Org. Accused No. 1)

Versus

The State of Maharashtra

.. Respondent

.....

- Ms. Tripti R. Shetty for Applicant
- Ms. R.V. Newton, APP for State
- Mr. Prakash Sonavane, API, Powai Police Station is present

.....

CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 14, 2025

P. C.:

1. Heard Ms. Shetty, learned Advocate for Applicant and Ms. Newton, learned APP for State.

2. Applicant - accused No. 1 has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**") in connection with Crime No. 354/2023 registered with Powai Police Station for the offences punishable under Sections 376, 376(2)(n) and 506 of the Indian Penal Code, 1860 (for short, "**IPC**").

3. Pursuant to the order dated 24.01.2025, learned APP has placed on record report dated NIL February 2025 which encloses the statement of Respondent No. 2 dated 06.02.2025. In that statement Respondent No. 2 has stated that she has no objection if the Court

allows the Applicant to be enlarged and released on bail and she does not want to appoint any lawyer or does not require any legal representation. Said statement is taken on record.

4. Ms. Shetty would persuade me to consider the dichotomy existing in the narration of the statement of the prosecutrix in the FIR and the statement narrated to the Medico Legal Officer during her medico legal examination on 30.06.2023. She would submit that in the FIR, Applicant has referred to the singular incident of 06.06.2023 whereas in the medical history of the incident which she has narrated, she has referred to the two incidents i.e. first incident dated 06.06.2023 and second incident dated 07.06.2023 where she has stated that Applicant came to her house and threatened her and assaulted her physically over her body and threatened to kill her with knife. She would persuade me to consider the medical report appended at page No. 51 onwards and when page No. 55 is read, it is seen that there are no injuries on the body of the prosecutrix as also on the internal as well as external parts and the final opinion stated therein also endorses that there is no evidence of any recent injuries.

5. Ms. Newton has placed before me the Section 164 Statement of the prosecutrix. It is recorded on 23.06.2023. Perusal of the said statement reveals that the prosecutrix has referred to the singular incident only. The dichotomy is therefore *prima facie* noted when the

statement recorded during her medico legal examination and medical report is seen. The benefit of doubt will have to be therefore given to the Applicant. Needless to state that complicity and guilt of the Applicant will be duly established at the trial.

6. In view of the above dichotomy in the version of the prosecutrix present Application is allowed in terms of prayer clause (a) subject to the following terms and conditions:-

- (i)** Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii)** Applicant shall report to the Investigating Officer of concerned Police Station on the third Saturday between 10:00 a.m. to 12:00 p.m. for the first six months and thereafter as and when called;
- (iii)** 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;
- (iv)** Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court. He shall deposit his

passport, if any, within two weeks after being released on bail with the Trial Court;

- (v) Applicant shall not make any attempts to re-associate with the prosecutrix in any manner either through a device or in-person and shall not reside in the jurisdiction of the Police Station wherein the prosecutrix is residing until the Trial is concluded. Investigating Officer shall specifically ensure that this condition is followed;
- (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;
- (viii) Any infraction of the above conditions shall entail cancellation of this order.

7. It is clarified that the 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.

8. Bail Application stands allowed and disposed.

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[MILIND N. JADHAV, J.]

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Digitally signed
by RAVINDRA
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Date: 2025.02.14
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