

Prasad Rajput
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4591 OF 2024

Mohammed Alfaiz Mursalin Ansari

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

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- Mr. Prashant J. Rai, Advocate for Applicant.
- Mrs. Mahalaxmi Ganpathy, APP for State.
- Mr. Suryakant Doke, PSI, Borivali, Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 16, 2025

P.C.:

1. Heard Mr. Rai, learned Advocate for Applicant and Mrs. Ganpathy, learned APP for State.

2. The present Application is filed by the Applicant seeking regular bail in connection with C.R. No. 309 of 2024 dated 01.05.2024 registered with Borivali Police Station for the offences punishable under Sections 376 (2) (a), 323, 504 and 506 of the Indian Penal Code, 1860 and Section 67 of the Information and Technology Act.

3. Applicant in the present case is incarcerated since 02.05.2024. Date of incident as stated in the FIR is from 01.05.2023 to 01.05.2024. However, tenure of the incidents which is stated in the FIR does not match. In the FIR it is the case of the complainant that in the month of May for the first time she had physical relationship with

the Applicant and thereafter the physical relationship and intimacy was repeated on three specific occasions. It is thereafter stated in the FIR that complainant committed certain acts on the insistence of the Applicant. On the basis of those acts video was recorded and she was threatened to do what Applicant asked her to do. However, nothing further is stated in the FIR after the aforementioned 4 incidents which have been stated. Learned APP Ms. Ganpathy would draw my attention to the statement of the victim and submit that the Complainant has suffered at the hands of the Applicant. However, applicability of Section 323 of IPC cannot be made out *prima facie* from the Complainant's statement.

4. Considering the delay in filing the FIR and facts of the present case, I am inclined to consider the case before me. Applicant is 21 years old and a bright student. He was teaching Cyber Security subject in Claritech Academy Computer Institute where he befriended the Complainant in March, 2023. Thereafter, it is the complainant's own case that their friendship blossomed into love relationship and they both together went to different places in Mumbai namely Raghuleela Mall, Band-stand, Bandra, Marine Lines Choupati etc. It is only thereafter that the above four incidents happened. There is nothing in the complaint filed by the complainant which shows any coercion or abuse on the part of the Applicant to have forced the complainant into the said incidents. Rather it is Complainant's own

case that both she and the Applicant were in love with each other and the incidents are clearly consensual.

5. In view of the *prima facie* findings delineated above and considering the future of the Applicant, I am inclined to allow present Application and enlarge the Applicant on bail.

6. In view of the above, following order is passed:-

(i) Applicant – Mohammed Alfaiz Mursalin Ansari, in connection with C.R. No. 309 of 2024 dated 01.05.2024 registered with Borivali Police Station for the offences punishable under Sections 376 (2) (a), 323, 504 and 506 of the Indian Penal Code, 1860 and Section 67 of the Information and Technology Act is ordered to be released on bail on furnishing P.B. and S.B. in the sum of Rs. 15,000/- (Rs. Fifteen Thousand Only) with one surety to the like amount;

(ii) Applicant shall not enter the vicinity of the residence of Complainant where she is currently residing;

(iii) Applicant shall report to the Police Station once in every month on the last Saturday of every month between 05.00 pm to 07.00 pm;

(iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted;

(v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court. He shall deposit his passport, if any, with the I.O. within two (2) weeks from his release date;

(vi) Applicant shall not influence 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) Applicant shall not misuse his liberty in any manner or to influence the witnesses in any way; and

(ix) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

7. Bail Application stands allowed and disposed.

[MILIND N. JADHAV, J.]