

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

CRIMINAL BAIL APPLICATION NO. 4642 OF 2024

Kiran Devaji Gumade

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Mahendra N. Sandhyanshiv, learned Advocate for the Applicant.
Mr. Amit A. Palkar, learned A.P.P. for the State/Respondent.
ASI Mr. H. D. Chavhan attached to Wadner Khakurdi Police Station,
Taluka-Malegaon, District-Nashik is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 5th AUGUST 2025.

P.C. :

1. Heard Mr. Mahendra Sandhyanshiv, learned Advocate for the Applicant and Mr. Amit Palkar, learned A.P.P. for the State/Respondent.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 38 of 2024 registered with Wadner Khakurdi Police Station, Taluka-Malegaon, District-Nashik for the offences punishable under Sections 376, 455 and 323 of the Indian Penal Code, 1860 (“**IPC**” for short).

3. Mr. Mahendra Sandhyanshiv, learned Advocate for the Applicant submits that the abovesaid crime is registered as Sessions

Case No. 81 of 2024 and is pending on the file of Additional Sessions Judge, Malegaon.

4. Applicant is the sole accused in the present crime.

5. The abovesaid crime was registered on the basis of complaint lodged by Shakubai Govind Bendkule (Victim/Informant), who is 60 years of age, on 24th January 2024. Case of the prosecution is that the Applicant entered into the house of Informant by covering his face and thereafter had forcible sexual intercourse with the Informant.

6. Applicant was arrested on 25th January 2024, since then he is in jail. Criminal Bail Application at Exhibit-3 filed by the Applicant in Sessions Case No. 81 of 2024, was rejected by the learned Additional Sessions Judge, Malegaon by order dated 18th July 2024.

7. Mr. Mahendra Sandhyanshiv, learned Advocate for the Applicant submits that the Applicant, who is 26 years old boy, has been falsely implicated in the present crime. He by referring to the complaint dated 24th January 2024 filed by the Informant, points out that the Victim/Informant though alleged the Applicant had sexual intercourse with her on 17th January 2024, however despite she having met with the neighbour on the said date, upto 24th January 2024 she did not make any complaint or raise any alarm with regards to the offence, as alleged. He submits that the medical examination of Informant does not indicate any signs of forcible sexual act on her. He submits that the Applicant does not have any criminal antecedents.

8. Mr. Amit Palkar, learned A.P.P. for the State/Respondent submits that the Informant has stated to have been subjected to forcible sexual intercourse on 17th January 2024 and reiterated the same in her statement recorded under Section 164 of the Criminal Procedure Code, 1973.

9. I have perused the records with the assistance of learned Advocates of the parties.

10. Charge-sheet reveals that the allegations made by the Informant are of the incident dated 17th January 2024 at 1.00 a.m. Informant alleges that a person masked, entered her house and committed forcible sexual intercourse on her. Her statement further records that after the said act, she immediately went to the house of neighbour and stayed with her. She did not mention the said act to the neighbour. As per the records, the Informant did not make reference of she being subjected to the act, complained in the crime committed on 17th January 2024 upto 24th January 2024. Material on record does not indicate any alarm being raised by the Informant either at the time of the alleged act or after the alleged act. Medical evidence does not support the prosecution case. Apart from the statement of Informant, there is no material on record to implicate the Applicant in the present crime.

11. Aforesaid being the nature of evidence on the strength of which the prosecution proposes to bring home the charge against the Applicant, further no criminal antecedents of the Applicant being placed on record, this is a fit case to enlarge the Applicant on bail. Applicant is therefore entitled to bail.

12. In view of the above, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 38 of 2024 registered with Wadner Khakurdi Police Station, Taluka-Malegaon, District-Nashik for the offences punishable under Sections 376, 455 and 323 of the IPC on executing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge, Malegaon.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade him from disclosing such facts to the Court or to any police officer.
- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Wadner Khakurdi Police Station, Taluka-Malegaon, District-Nashik and shall keep the same updated, in case of any change thereto.
- e. Applicant shall co-operate in the conduct of the trial of

Sessions Case No. 81 of 2024 and shall regularly attend the hearing of the case pending on the file of Additional Sessions Judge, Malegaon, on each and every date, unless exempted from appearance.

13. Criminal Bail Application No. 4642 of 2024 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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