

Shabnoor

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

BAIL APPLICATION NO. 5440 OF 2024

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Anil Vilas Savate

... Applicant

V/s.

State of Maharashtra

... Respondent

Mr. Akash R. Thakur i/b Mr. Chavan Penthalia, for the applicant.

Mrs. Megha Bajoria, APP for the State – respondent No.1.

Ms. Ilsa Sabir Shaikh for respondent No.2 (Appointed as Legal – Aid counsel).

Mr. B. B. Gavhane, PSI, Hill Line Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 21, 2025

PC.:

1. The present bail application is filed by the applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking regular bail in connection with Crime Register No. I-619 of 2024 registered with Hill Line Police Station. The applicant is facing prosecution for offences punishable under Sections 64(2)(d) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS), which pertain to aggravated sexual assault and criminal intimidation, respectively.

2. As per the case put forth by the prosecution, it is alleged that the applicant initially developed a friendship with the victim/informant, which subsequently evolved into a romantic and sexual relationship. It is alleged that between March 2023 and March 2024, the applicant repeatedly had sexual intercourse with the victim by threatening her. Furthermore, on 11th August 2024 at about 7:45 p.m., the applicant allegedly sent a video of their sexual act to the victim and threatened that if she did not meet him, he would circulate the said video publicly. It is noted that the applicant had earlier approached the learned Sessions Court for grant of bail; however, his application was rejected. Aggrieved by the said order, he has now preferred the present bail application before this Court.

3. Learned Advocate for the applicant has placed reliance on the contents of the victim's own statement. It is submitted that the relationship between the applicant and the victim lasted for nearly a year, from March 2023 to March 2024. During this time, the victim voluntarily accompanied the applicant to various places and stayed with him on multiple occasions. It is also pointed out that even after the applicant's marriage was fixed with another woman in May 2024, the victim continued to maintain contact with the applicant and allegedly had sexual relations with him at a hotel. It is therefore argued that the relationship was consensual in nature and not one arising out of threat or coercion. The learned counsel has further pointed out that the victim is a 29-year-old adult woman and mother of a 10-year-old child, and therefore, capable of taking independent decisions. On these grounds, prayer is made

to release the applicant on bail.

4. On the other hand, the learned Additional Public Prosecutor and the Advocate representing the victim have strongly opposed the bail application. It is submitted that the entire relationship between the applicant and the victim was based on a false assurance of marriage given by the applicant at the very inception. It is argued that such false representation vitiates the element of valid consent as contemplated under Section 28 of the Bharatiya Nyaya Sanhita. The victim's statement recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita clearly reflects that the applicant never intended to marry her, and that her consent was obtained by fraud and misrepresentation. It is therefore submitted that the consent of the victim cannot be said to be a "free and voluntary consent" in the eyes of law, and the sexual acts, though apparently consensual, amount to an offence under the BNS. It is further submitted that considering the serious nature of the offence, the applicant does not deserve the discretion of bail at this stage.

5. I have considered the rival submissions advanced by the learned counsel for the applicant, the learned APP, and the learned counsel appearing for the victim. I have also carefully perused the statement of the victim recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, and the allegations levelled in the FIR.

6. On a prima facie examination of the material on record, it appears that the relationship between the applicant and the victim

continued for nearly one year, and that the victim, an adult woman aged about 29 years, voluntarily accompanied the applicant on several occasions and stayed with him. It is also not in dispute that even after the applicant's marriage was fixed with another woman, the victim continued to engage with him voluntarily and allegedly had physical relations with him in a hotel in May 2024. These circumstances, at this stage, do raise a debatable issue regarding the voluntariness and understanding behind the alleged consent and whether it was obtained under any misconception of fact.

7. While the prosecution has alleged that the consent was obtained on the false promise of marriage, this aspect requires deeper appreciation of facts and evidence, which can only be done at the stage of trial. At the stage of consideration of bail, a detailed roving inquiry into the genuineness of consent is not warranted. What is required is to assess whether a case for custodial interrogation or continued incarceration is made out, and whether the applicant is likely to misuse his liberty or tamper with the evidence or influence the victim.

8. In the present case, the investigation appears to be completed. The applicant is in custody since his arrest. There is no material placed before this Court to suggest that the applicant is likely to abscond or tamper with the prosecution evidence if released on bail. Further, the applicant is a first-time offender and does not appear to have any criminal antecedents. Therefore, further incarceration of the applicant may not be necessary at this stage.

9. Taking into consideration the totality of the facts and circumstances of the case, the nature of allegations, the age and status of the parties, and the stage of investigation, this Court is of the opinion that the applicant deserves to be enlarged on bail, subject to stringent conditions.

10. In view of the above discussion, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant, shall be released on bail in connection with Crime Register No. I-619 of 2024 registered with Hill Line Police Station for offences punishable under Sections 64(2)(d), 351(2) of BNS, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the victim.

(b) The applicant shall report to the Hill Line Police Station, Mumbai on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(c) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.

(d) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(e) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

11. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)