

Shabnoor

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

BAIL APPLICATION NO. 5446 OF 2024

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Anilkumar Ramdayal Vishwakarma	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Thevar Kannan S., for the Applicant.

Mrs. Megha S. Bajoria, APP for the State – respondent.

Mr. Milind T, PSI, Tulinj Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 30, 2025

P.C.:

1. The present application for bail is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release in connection with Crime Register No. 149 of 2022 registered with Tulinj Police Station, District Palghar. The applicant is accused of having committed offences punishable under Sections 376, 504 and 506 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, the informant was residing with her husband and children. Her husband was working as a carpenter in a factory which is stated to be owned by the applicant. The incident is alleged to have occurred on 19th March 2019. On that day, while the informant's husband had gone for work and she was resting at home, the applicant is said to have

come to her house between 11:00 a.m. to 11:30 a.m. It is alleged that the informant's son, Amit, opened the door for the applicant and went back to sleep. The applicant thereafter allegedly forced himself upon the informant. When she tried to resist, it is alleged that he assaulted her and issued threats, stating that he would ensure she never steps out of the house again and would harm her children. The prosecution further alleges that the applicant committed forcible sexual intercourse with the informant, in the presence of her minor son. Based on these allegations, the present FIR came to be registered.

3. Learned Advocate appearing on behalf of the applicant has submitted that the incident is alleged to have taken place on 19th March 2019, but the FIR has been lodged much later on 5th March 2022, i.e., after almost three years. It is submitted that in the meantime, on 29th March 2019, the applicant's daughter had lodged a complaint against the present informant in which she had alleged an acid attack. Pursuant to that complaint, the applicant was arrested on 2nd April 2019 and remained in custody till 17th September 2021. The learned counsel has argued that the present FIR has been filed only after the earlier complaint and subsequent arrest of the informant, and hence, is a retaliatory action. It is further submitted that although the informant claims that the incident was witnessed by her children, none of them approached the authorities for a period of three years. Thus, in these circumstances, it is submitted that the applicant has been falsely implicated and no purpose would be served by continuing his detention.

4. On the other hand, the learned APP has strongly opposed the application. It is submitted that the FIR contains specific and serious allegations against the applicant. The victim has narrated the incident in detail, and her version is corroborated by her son and daughters who are stated to be natural witnesses, as they were residing in the same house at the relevant time. The learned APP further submits that though there may have been delay in lodging the FIR, the same cannot be the sole ground for rejecting the credibility of the victim's version, especially in an offence of such serious nature. It is further submitted that the statements of the eyewitnesses lend support to the case of the prosecution, and in view of the gravity of the allegations, the applicant is not entitled to be released on bail at this stage.

5. I have given my thoughtful consideration to the submissions advanced by the learned counsel for the applicant and the learned APP for the State. I have also perused the FIR, statements of witnesses, and the documents placed on record.

6. At the outset, it is to be noted that the alleged incident took place on 19th March 2019. However, the FIR in respect of the same came to be registered only on 5th March 2022 — after a lapse of nearly three years. It is also an admitted position that during this entire period, the applicant was in custody in connection with another offence registered at the instance of the applicant's daughter against the present informant. The said factual aspect is not disputed by the prosecution.

7. In cases involving offences under Section 376 of the IPC, it is well settled that mere delay in lodging the FIR is not always fatal. However, in the present case, the FIR came to be registered after an unusually long delay of nearly three years, during which period the applicant was in judicial custody. No plausible explanation has been offered by the prosecution or the informant for this long and unexplained delay. This aspect creates a serious doubt, prima facie, regarding the genuineness of the allegations.

8. Furthermore, the informant has stated that her son and daughters were eyewitnesses to the incident. However, even these witnesses, who are said to be adults, did not approach the authorities at any point during these three years. Their silence and inaction over such a long period, in the face of such serious allegations, casts a shadow on the prosecution version, at least at this prima facie stage.

9. The applicant has been in custody in connection with this offence since the date of his arrest. The charge-sheet appears to have been filed. Investigation is complete and no further custodial interrogation is stated to be required. The trial is likely to take considerable time, and no cogent material is placed on record to show that the applicant, if released on bail, is likely to tamper with the prosecution witnesses or flee from justice.

10. Having regard to the totality of circumstances, especially (i) the inordinate delay in lodging the FIR, (ii) the admitted custody of the applicant during the period when the incident is alleged to have taken place, and (iii) the unexplained silence of the alleged

eyewitnesses, this Court is of the opinion that the applicant has made out a case for grant of bail. It is made clear that the observations made herein are only for the purpose of considering the bail application and the trial Court shall not be influenced by the same at the time of trial.

11. Hence, the following order :

- (i) The Bail Application is allowed.
- (ii) The applicant shall be released on bail in connection with Crime Register No. 149 of 2022 registered with Tulinj Police Station, Palghar for offences punishable under Sections 376, 504, 506 of IPC, 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.
 - (b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.
 - (c) The applicant shall report to the Tulinj Police Station, Palghar once in every three month between 10.00 a.m. and 12.00 noon, until further orders.
 - (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.

12. The Bail Application is allowed and disposed of in above terms.

(AMIT BORKAR, J.)