

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 42 OF 2025

Arshad Hafijulla Khan .. Applicant
Versus
The State of Maharashtra and Anr. .. Respondents

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- Ms. Anjali Patil a/w Mr. Tohid Shaikh, Advocate for Applicant.
 - Mr. Abhilash Kurey i/b Legal Legacy's a/w Ms. Tejashree Kolamkar, Adv. Allwya D'silva, Mr. Nikesh Uparpelli and Ms. Shaheen Siddiqui, Advocates for complainant – Respondent No.2.
 - Ms. Shilpa K. Gajare-Dhumal, APP for State.
 - PSI – Arvind D. Patil, Byculla Police Station, Mumbai.
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CORAM : MILIND N. JADHAV, J.

DATE : MARCH 17, 2025

P. C.:

1. Heard Ms. Patil, learned Advocate for Applicant and Ms. Gajare-Dhumal, learned APP for State. Perused the record.

2. Sequence of offence in the present case is prima facie seen from the FIR and statement of the mother of the victim. Accused No.3 is a juvenile who was having a love relationship with the prosecutrix. Accused No.3 was 17 years old whereas prosecutrix was 15 years old at the time of incident. Charge against Accused No.3 is that he had taken out certain compromising photographs of the prosecutrix and thereafter shared said photographs with present Applicant namely Accused No.1 who was his friend and thereafter

with Accused No.2. Accused No.1 is before me as Applicant seeking bail.

3. Ms. Patil, learned Advocate for Applicant has taken me through the record of the case and argued that the case which is stated in the FIR by the First Informant – mother i.e. narration of facts are completely contrary to various witness statements which are recorded of the uncle and other witnesses by the prosecution as also the statement recorded under Section 164 of the prosecutrix herself.

4. The learned appointed Advocate has placed before the Court statement recorded under Section 164 which when read *prima facie* shows a completely different picture with respect to trail and tracing of money demanded by the Accused persons from the prosecutrix which has been stated therein, but which case is *prima facie* absent in the FIR/statement.

5. Be that as it may, if the matter has to travel beyond the Accused No.3 for consideration of the case of Accused No.1, prosecution will have to *prima facie* show that the alleged photographs were recovered from the mobile phone of the Accused No.3 which is the primary case of the First Informant and the prosecution which is borne out from the record. *Prima facie* after

going through record there is no reference save and except the witness statements which are recorded.

6. Ms. Gajare-Dhumal, learned APP would inform to the Court that mobile phone of Accused No.3 has been sent for forensic chemical analysis and result is awaited. The investigating Officer is not present in the Court. Through the learned APP he is directed by the Court to obtain the forensic report of the mobile phone of the Accused No.3 to the Court on the next adjourned date to enable this Court to consider the bail application of the Applicant.

7. Stand over to **24th March, 2025 (F.O.B.)**.

PR. Rajput

[MILIND N. JADHAV, J.]