

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 605 OF 2025

Nilesh Shreedhar Varekar

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. B.L. Jagtap i/b Mr. Ashish Jagtap, Advocate for Applicant.
- Ms. Shilpa K. Gajare-Dhumal, APP for State.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 13, 2025

P. C.:

1. Heard.

2. Applicant - accused has filed the present Application for regular bail in connection with Crime No. 922 of 2018 registered with Dahisar Police Station for the offences punishable under Sections 452, 376(2) of Indian Penal Code, 1860.

3. FIR / complaint is filed on 28.12.2018 on a singular incident which has happened in the afternoon on that date. Applicant is a resident of seventh floor of the same building in which victim was residing.

3.1. At about 03:00 pm in the afternoon he entered victim's house when she was alone at home. Record shows that door of house was bolted from inside. Victim's younger brother aged about 12 years old who was playing outside saw Applicant entering the house

therefore he informed his elder brother Suresh. Applicant being known to the victim's family being and residing in the same building had entered their house and the victim who was major aged 20 years old was present inside the house.

3.2. Elder brother of the victim immediately rushed to the house. He banged the door and in a frightening state victim opened the door. Spot panchanama shows that house / incident spot in question comprises of a hall, one bedroom and small kitchen. When the victim's elder brother entered the house he tried to search for the Applicant as he could not be found / seen any where in the hall so he entered bedroom. In the bedroom also initially he did not see applicant but he found Applicant hiding behind the bedroom door. He therefore caught hold of the applicant and record also shows that he mercilessly beat him up causing injuries to his head which is borne out from his own statement as also witness statement recorded by the Police. He was taken to the police station and arrested on the same date. It is seen that victim was a little over 20 years old and she has speech disability. She used to communicate fairly with her family members through sign language.

4. Mr. Jagtap, learned Advocate for Applicant would persuade me to consider victim's statement under Section 164 recorded before the Magistrate. A copy of the statement is placed

before the Court and handed over to learned APP. A perusal of this statement is *prima facie* in contradiction with the facts which are stated in the FIR / complaint which is appended at Page No.24 of the Application. I have pointed out these discrepancies to Ms. Gajre.

5. Considering the long incarceration of the Applicant and status of the trial informed by Mr. Jagtap, learned Advocate for Applicant Ms. Gajare, learned APP is directed to take appropriate instructions from the Investigating Officer of the precise status of trial and apprise the Court on the next adjourned date.

6. Mr. Jagtap would draw my attention to page No.132 of the Application which is the Roznama dated 03.02.2023, reading of which makes it apparent that prosecution witness which is the victim has not appeared for the last two years and due to this trial is stalled. Learned APP shall take appropriate instructions on this issue also.

7. Applicant is in incarceration for more than 6 years and 1 month and 26 days which is a substantial period. In view of the above observations, I am inclined to take up this matter for hearing. After hearing learned APP on the next adjourned date further order shall be passed.

8. Stand over to 18th February, 2025 (F.O.B).