

Ashish

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

BAIL APPLICATION NO.664 OF 2025

Mukesh Ram Malusare	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Aniket Vagal a/w Ms. Juhi Kadu, Mr. Kunal N. Pednekar for Applicant.

Mrs. Shilpa G Talhar, APP for Respondent- State.

Mr. Manish Waghmare, P.S.I. Ambernath Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 23, 2025

P.C.:

1. The present bail application is filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking his release on regular bail in connection with Crime Register No.1292 of 2024 registered at Ambernath Police Station, District Thane. The applicant is facing prosecution for the offences punishable under Sections 354-D, 376, 504, 506, and 511 of the Indian Penal Code, 1860.

2. As per the case of the prosecution, the victim, who is the wife of the informant, was suffering from mental health issues. The applicant, who was acquainted with the family, used to visit their house with the stated purpose of counseling the victim

regarding her mental illness and weight management. It is alleged that on 1st February 2022, between 3:00 to 4:00 p.m., the applicant called the victim to S-3 Park Hotel & Lodging at Ambarnath (West) on the pretext of counseling and committed forcible sexual intercourse with her. Further, it is alleged that the applicant continued to sexually exploit the victim on other occasions and was also forcing her to marry him.

3. The informant, who is the husband of the victim, lodged the complaint against the applicant on 17th October 2024, more than two years after the alleged first incident.

4. Learned Advocate Mr. Aniket Vagal, appearing for the applicant, submitted that the applicant was about 35 years old at the relevant time and that the relationship between the applicant and the victim was consensual. He further submitted that there is an unexplained delay of more than two years in filing the FIR, which casts doubt on the genuineness of the allegations. It is his submission that the allegations are afterthought and have been made with ulterior motive. He, therefore, prayed that the applicant may be released on bail by imposing suitable conditions.

5. On the other hand, learned APP Mrs. Shilpa G. Talhar, appearing for the State, opposed the grant of bail. She submitted that the victim was under constant threat from the applicant, who had allegedly taken photographs of the victim and threatened to make them viral on social media. Due to this fear, the victim remained silent for a considerable time. It is submitted that the sexual acts were not consensual but forcible in nature, and the

victim was compelled to submit herself against her will. She therefore urged for rejection of the bail application considering the seriousness of the offence and the threat to the victim.

6. I have considered the submissions made by the learned counsel for the applicant and the learned APP for the State. I have also perused the record, including the copy of the FIR, statement of the victim, and other material placed on record.

7. It is not in dispute that the first alleged incident of sexual assault is of 1st February 2022, whereas the FIR came to be lodged only on 17th October 2024, i.e., after more than two and a half years. Though the prosecution has sought to justify the delay by stating that the victim was under threat, it is to be noted that during this long period there appears to have been no complaint made by the victim to her family members or to the police authorities. The delay in lodging FIR in cases of this nature may not always be fatal, but where the parties are known to each other, such unexplained and prolonged delay assumes significance and may affect the veracity of the prosecution case.

8. Further, from the material placed on record, it is evident that the applicant and the victim were in regular contact. The nature of the relationship and the conduct of the parties over a long period would be a matter of trial. At this stage, it would not be appropriate for this Court to record any conclusive finding. However, taking into consideration the delay in lodging the report, the applicant's age, absence of criminal antecedents, and the fact that the investigation is complete and charge-sheet has been filed,

continued pre-trial detention of the applicant is not warranted.

9. It is a settled position of law that the object of bail is to secure the attendance of the accused at trial, and not to detain him as a form of punishment before conviction. There is no material on record to show that the applicant, if released on bail, is likely to abscond or tamper with evidence or influence witnesses.

10. In view of the above circumstances, I am of the opinion that this is a fit case to grant bail to the applicant by imposing suitable conditions to ensure his availability for trial and to safeguard the interests of the prosecution.

ORDER

(a) The application is allowed.

(b) The applicant is directed to be released on bail in connection with C.R. No.1292 of 2024 registered with Ambernath Police Station, District Thane, for offences punishable under Sections 354-D, 376, 504, 506, and 511 of the IPC, on his executing PR. Bond of ₹25,000/- (Rupees Twenty-Five Thousand Only) with one or more sureties in the like amount.

(c) The applicant shall not tamper with the prosecution witnesses and shall not directly or indirectly make any contact with the victim or her family members.

(d) The applicant shall report to the Investigating Officer on the first Monday of every month between 10:00 a.m. and 12:00 noon, for a period of three months.

(e) The applicant shall furnish his current residential address and contact number to the Investigating Officer and shall not change the same without prior intimation to the Court.

(f) Breach of any of the above conditions shall entail cancellation of bail.

(AMIT BORKAR, J.)