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

BAIL APPLICATION NO.1499 OF 2025

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Rohit Dharmendra Bharatiya

... Applicant

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. Piyush S. Chhabria with Pravin D. Kukreja for the applicant.

Ms. Megha S. Bajoria, APP for the State.

Mr. Sambhaji Mane, PSI, Kalyan Taluka Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 16, 2025

P.C.:

1. This is an application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), seeking grant of regular bail in connection with Crime No.450 of 2024 registered with Kalyan Taluka Police Station, District Thane. The said crime is registered for offences punishable under Sections 64(2)(d), 333, 115(2), 352 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (BNS).

2. As per the case of the prosecution, the First Information Report (FIR) came to be lodged by the informant, a 26-year-old married woman and mother of two children. It is alleged that

during the month of May 2024, while she was resting inside her home, the present applicant unlawfully entered her house and repeatedly committed forcible sexual intercourse with her, while also threatening to kill her husband and children. Thereafter, on 21st August 2024, the applicant allegedly entered her house again. On this occasion, when the informant raised an alarm, one Sunita Rawat Yadav, a neighbour residing nearby, rushed to her aid and rescued her. Based on this incident, the informant lodged a report. The applicant came to be arrested on 12th December 2024. The bail application moved by the applicant before the learned Sessions Judge was rejected. Hence, the present application is preferred before this Court.

3. Learned counsel for the applicant has drawn attention to the charge-sheet as well as the statement of the prosecutrix and other witnesses recorded during the investigation. He submitted that the relationship between the prosecutrix and the applicant was consensual in nature, and that the allegations have been made due to some dispute or misunderstanding. It is pointed out that although the incident is stated to have occurred in May 2024, the report came to be lodged only on 23rd August 2024—after a delay of nearly three months. It is contended that such delay in lodging the FIR, without proper explanation, casts a doubt on the veracity of the allegations. He further submitted that the applicant is a permanent resident of the locality and has no prior criminal record. He is ready to abide by any conditions that may be imposed by the Court and undertakes to cooperate with the trial. It is urged that there is no likelihood of the applicant fleeing from

justice or tampering with the prosecution witnesses. Hence, a plea is made to release the applicant on bail under Section 483 of the BNSS.

4. On the other hand, learned APP has strongly opposed the bail application. It is submitted that the allegations made against the applicant are grave in nature and involve serious offences against a woman. It is pointed out that the nature of allegations, including the repeated act of sexual violence, criminal intimidation, and trespass, show that the applicant poses a threat to the safety and dignity of the prosecutrix. The learned APP also emphasized that the offence under Section 64(2)(d) of the BNS involves aggravated sexual assault, and that such acts cannot be treated lightly at the stage of bail. It is further submitted that the presence of an eyewitness, namely the neighbour who rescued the informant, lends corroboration to the prosecution's case. It is thus contended that considering the seriousness of the offences and the potential threat to the victim and her family, the applicant does not deserve the discretionary relief of bail at this stage.

5. Having considered the rival submissions advanced by the learned counsel for the applicant and the learned APP for the State, and upon perusal of the charge-sheet and material placed on record, it is not in dispute that the first alleged act of forcible sexual intercourse took place in the month of May 2024, whereas the FIR came to be lodged on 23rd August 2024, that is, after a delay of nearly three months. It is settled law that delay, by itself, is not fatal to the prosecution if the reasons for such delay are satisfactorily explained. However, in the present case, no

explanation appears to have been offered in the FIR or accompanying documents about the cause of delay in approaching the police, especially in a matter involving serious allegations of repeated sexual assault and threats. At this stage, such delay, though not conclusive, certainly becomes a relevant factor while considering the question of bail, particularly when the applicant is in custody and the investigation is already completed.

6. The prosecutrix, in her statement, has alleged that the applicant entered her house without consent and committed repeated acts of sexual assault, along with threats to her family. However, it is also a matter of record that the applicant and the informant reside in close proximity, and as per the statement of certain witnesses, including the neighbour, there existed some prior acquaintance between them. Whether the relationship, if any, was voluntary or not is a matter that would require detailed appreciation of evidence during the course of trial. The presence of an eyewitness (neighbour) does lend some initial support to the prosecution case, but whether the specific offence under Section 64(2)(d) is made out or not will depend on full trial.

7. The applicant is already in judicial custody since 12th December 2024. The charge-sheet has been filed, and the investigation is stated to be complete. The police have recorded statements of material witnesses and have seized necessary documents. Therefore, further custodial interrogation of the applicant is not warranted at this stage.

8. There is no material on record to suggest that the applicant

has attempted to threaten the informant or influence any witness during investigation. It is also not the case of the prosecution that the applicant is likely to abscond. However, considering the nature of the allegations and the proximity of residence between the victim and the applicant, some reasonable conditions will have to be imposed to ensure that the victim is not put to further trauma or pressure during the trial.

9. It is also not the case of the prosecution that the applicant has any previous criminal antecedents or that he is a habitual offender. His permanent residence is not disputed, and he is willing to abide by any condition that may be imposed by this Court.

10. Considering the above discussion and overall facts and circumstances of the case, and without expressing any opinion on the merits of the case which shall be decided at the stage of trial, this Court is of the view that the applicant deserves to be released on bail subject to conditions.

11. Hence, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant – Rohit Dharmendra Bharatiya – be released on regular bail in connection with Crime No.450 of 2024 registered with Kalyan Taluka Police Station, District Thane for the offences punishable under Sections 64(2)(d), 333, 115(2), 352 and 351(2) of the Bharatiya Nyaya Sanhita, 2023, on furnishing P.R. bond of ₹25,000/- (Rupees Twenty-Five Thousand only) with one or more solvent

sureties in the like amount.

(iii) The applicant shall not directly or indirectly make any attempt to contact, influence, threaten or harass the informant, her family members, or any other prosecution witnesses.

(iv) The applicant shall not enter the locality where the informant resides, unless called by the Investigating Officer or required by any Court of law.

(v) The applicant shall attend the trial regularly and shall not seek unnecessary adjournments.

(vi) The applicant shall cooperate with the trial and shall not tamper with the evidence in any manner.

(vii) The applicant shall inform the Investigating Officer and the trial Court of any change in his residential address.

(viii) If the applicant violates any of the above conditions, the prosecution will be at liberty to move for cancellation of bail.

(AMIT BORKAR, J.)