

VRJ

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

BAIL APPLICATION NO.1761 OF 2025

Asad Iqbal Hussain Shaikh	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

VAIBHAV
RAMESH
JADHAV

Digitally signed by
VAIBHAV
RAMESH JADHAV
Date: 2025.07.28
17:20:47 +0530

Mr. Pramod Pandey for the applicant.

Ms. Megha S. Bajoria, APP for the State-respondent
No.1.

Ms. Priyanka Chavan for respondent No.2 (Appointed
as Legal Aid Counsel).

Mr. Sopan Wadkar, PSI (Pairavi), Sakinaka Police
Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 28, 2025

PC.:

1. The present application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, wherein the applicant seeks regular bail in connection with Crime No. 532 of 2024 registered with Saki Naka Police Station. The applicant is charged for offences punishable under Sections 115(2), 351(3), 64, 74, and 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023.

2. As per the prosecution case, on 13th April 2024, the applicant is alleged to have taken the complainant to a secluded place within Sakinaka area and attempted to sexually assault her. It is further alleged that on 11th June 2024, the applicant forced

the complainant to sit in his vehicle by taking away her mobile phone and committed forcible sexual assault in a cabin of a tempo parked near Safedpul, Sakinaka. The FIR further discloses that between 11th June 2024 and 5th July 2024, the applicant repeatedly committed sexual assaults on the complainant at Sakinaka and Virar, while threatening her with harm if she informed anyone. The complaint was eventually registered and on completion of investigation, the charge-sheet has been filed before the competent Court.

3. Learned Advocate appearing for the applicant submitted that from the very narration of the incidents by the complainant, it is clear that there was an element of willingness in accompanying the applicant on various occasions. It is pointed out that the complainant, who is 21 years of age, voluntarily went with the applicant, aged 24 years, to different places in his vehicle. According to the learned Advocate, the complainant has stated that there was an attempt to have sexual intercourse on 13th April 2024, and thereafter actual intercourse allegedly occurred on 11th June, 27th June, 5th July, and again on 13th April. It is, therefore, argued that the entire relationship appears to be consensual, and the element of force is an afterthought. The applicant has no criminal antecedents, and investigation is complete. Hence, continued custody is not warranted, and he may be released on bail with appropriate conditions.

4. On the other hand, learned APP for the State and learned counsel appointed for the victim strongly opposed the bail. It is submitted that the allegations made by the complainant are

serious and indicate repeated acts of forcible sexual assault. They submitted that the complainant has clearly alleged that she was threatened by the applicant and was under fear and duress. They pointed out that the medical examination conducted after the incident dated 11th June 2024 reveals injuries which corroborate the version of the complainant regarding use of force. In these circumstances, they contended that the case is not of consensual relationship and the applicant should not be released on bail at this stage. They, therefore, prayed for rejection of the present application.

5. I have carefully considered the rival submissions and perused the material on record, including the contents of the FIR, the statement of the complainant, and the medical papers placed on record. It is not in dispute that the complainant is a major, aged 21 years, and the applicant is also a young adult aged 24 years. A plain reading of the FIR and statements indicates that the complainant accompanied the applicant to different places on multiple occasions, including in his vehicle, without raising an alarm or approaching any authority immediately after the first alleged incident. These circumstances, at this prima facie stage, raise doubt about the element of continued force or compulsion in each incident.

6. It is further required to be noted that while the complainant has alleged that the applicant had threatened her, the nature of threats and the circumstances under which she continued to accompany him on different dates, including across different locations such as Sakinaka and Virar, appear to require deeper

appreciation of evidence, which can only be done during trial. At this stage, the court is not expected to go into a detailed examination of the truthfulness or otherwise of the allegations, but only to assess whether a case for bail is made out.

7. The applicant is in custody since his arrest and charge-sheet has been filed. Therefore, the investigation is complete and further custodial interrogation of the applicant is not necessary. It is also not the case of the prosecution that the applicant has criminal antecedents or that he poses a flight risk. The apprehension expressed by the prosecution and the victim's counsel that the applicant may influence the victim can be addressed by imposing stringent conditions while granting bail.

8. In view of the above, this Court is of the opinion that further detention of the applicant is not necessary and that he deserves to be enlarged on bail, particularly considering his age, absence of criminal antecedents, completion of investigation, and the debatable nature of the allegations concerning consensuality.

9. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Asad Iqbal Hussain Shaikh is directed to be released on bail in connection with Crime No. 532 of 2024 registered with Sakinaka Police Station for offences punishable under Sections 115(2), 351(3), 64, 74, 64(2)(m) of Bharatiya Nyaya Sanhita, 2023, upon furnishing cash surety of Rs.25,000/- (Rupees Twenty-Five Thousand only) and executing a Personal Recognizance (P.R.) Bond in the

like amount, within a period of eight weeks from the date of this order, subject to the following conditions:

- a) The applicant shall report the Sakinaka Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
- b) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
- c) The applicant shall not tamper with the evidence or attempt to influence any witness.
- d) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.
- e) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
- f) The applicant shall not indulge in any criminal activity during the pendency of the trial.
- g) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

(AMIT BORKAR, J.)