

Ajay

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

CRIMINAL BAIL APPLICATION NO. 1934 OF 2025

Sagar Suresh Dhodi

.. Applicant

Versus

State of Maharashtra

.. Respondent

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- Mr. Hitesh Mutha, Advocate for Applicant appointed through Legal Aid.
- Ms. Mahalakshmi Ganapathy, APP for Respondent – State.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 07, 2025.

P.C.:

1. Heard Mr. Mutha, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent – State and perused the record of the case.

2. This is an Application under Section 439 of the Code of Criminal Procedure, 1973 seeking Regular Bail in connection with Sessions Case No.101 of 2023 pending before Additional Sessions Judge, Palghar in connection with Crime No. I-356 of 2023 registered with Boisar Police Station for offence punishable under Section 376(2) (n) of the Indian Penal Code, 1860 (for short '**IPC**') read with Sections 66E and 67A of the Information Technology Act, 2000 (for short '**IT Act**').

3. The Applicant in the present case is arrested on 22.08.2023, Application has been filed through jail through the Legal Aid Advocate appointed by this Court. Applicant is one of the co-accused person and brother-in-law of the First Informant as she is married to Applicant's elder brother. Prosecutrix is a 32 year old woman who filed FIR on 21.08.2023. The tenure of the incident with Applicant stated in the FIR is from 02.08.2021 to 18.08.2023.

4. As per prosecution case, and as admitted by prosecutrix herself in her statement appended at page No.35 of the Application, she has admitted that she was in a relationship with Applicant for a period of 5 years prior to filing of FIR and for two years she was in a consensual physical relationship with him. She would submit that her husband and her elder brother-in-law came to know about the love relationship between Applicant and prosecutrix because of which she could not continue with the affair with Applicant. Prosecutrix has alleged that in February 2021, Accused No.2 - Naresh Dhodi called her repeatedly and showed her some videos between Applicant and prosecutrix and threatened to viralise the same and exploited her to the extent of keeping physical relationship with him and repeatedly forcefully ravished her modesty. Accused No.2 is the President of Jijau Social Society which runs a hospital in Boisar – Thane. In 2021, mother-in-law of prosecutrix and mother of Accused persons was suffering from cancer and at the insistence of Accused No.2 she was

admitted in the Hospital managed by Jijau Social Society for treatment. At that time treatment of prosecutrix's mother-in-law did not take place properly which led to husband of prosecutrix who is the younger brother of Accused No.2 to prepare a video of malpractices in the hospital and viral it. This did not go down well with Accused No.2. Thereafter mother-in-law of prosecutrix was transferred to Platinum Hospital in Mumbai where she expired on 06.08.2023. On 18.08.2023 husband of prosecutrix showed some compromising videos of Applicant and prosecutrix to her as received from Accused No.2. This led to prosecutrix to file the present FIR / complaint.

5. Insofar as Accused No.2 is concerned, though prosecutrix has alleged offences under Section 376(2)(n) of IPC and Sections 66E and 67A of IT Act against him despite that he is granted pre-arrest bail on 12.08.2024 in the facts of the case narrated hereinabove. Insofar as case of Applicant before me is concerned, case of prosecutrix is that she was admittedly in a consensual physical relationship with him for 5 years prior to filing of FIR. *Prima facie* there is an inordinate delay in filing the FIR for more than 5 years as against the Applicant. The delay is unexplained. Prosecutrix has not charged Applicant with any forceful or violent assault. Hence *prima facie*, the above circumstances strongly suggest that FIR is a result of the dispute between the husband of prosecutrix and Accused No.2, both brothers.

6. It is seen that the husband of prosecutrix making a video of the hospital managed by Accused No. 2 and viralising it is the bone of contention between the parties. All parties are very closely related. That apart, role attributed to Applicant does not extend to circulation of the alleged compromising videos. There is no such charge in the entire prosecution case against Applicant. It appears that Applicant who is the younger brother has been caught in the cross fire of charges between his two elder brothers. Another co-accused Santosh Yadav who is charged with Accused No.2 to have circulated and viralised the compromising videos is not even arrested till date.

7. *Prima facie* it is seen that there is an apparent dispute amongst family members and therefore timing of the FIR in question raises a doubt. Further no role is attributed to Applicant except for stating that prosecutrix had a consensual relationship with him due to their love affair. There is no other incriminating material in the FIR neither the witness statements which are recorded point out to any incriminating material or role of Applicant in the crime. Prosecutrix is a married lady aged 32 years who is well aware of the import of her actions.

8. In view of the above *prima facie* observations emanating from the record, Accused No.2 having being granted anticipatory bail in the crime despite his alleged role which is far more severe than that

of the present Applicant as alleged, absconding Accused No.3 not being arrested till date and Applicant having served incarceration for the past 1 year 8 months, I am of the opinion that in view of the above facts, further custody of Applicant is unwarranted and can be released on bail.

9. Hence, Bail Application is allowed on the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs.15,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.15,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;
- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iv) After his release from jail, Applicant shall report to the

Investigating Officer as and when called for;

- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and
- (ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

10. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any

observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

11. Fees of Mr. Mutha, learned Advocate appointed through Legal Aid to represent and espouse the cause of Applicant shall be released by the Registry of this Court within a period of one week from the date of presentation of a server copy of this order on compliance.

12. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

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by AJAY
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