

Laxmi Sontakke
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1938 OF 2025

Ashrad Mansur Molla .. Applicant
Versus
The State of Maharashtra .. Respondent

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- Mr. D. S. Pagare, Advocates for Applicant.
 - Mahalakshmi Ganapathy, APP for Respondent - State.
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CORAM : MILIND N. JADHAV, J.

DATE : MAY 08, 2025

P.C.:

1. Heard Mr. Pagare, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent - State.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short 'Cr.P.C.') seeking Bail in connection with C.R. No.722 of 2024 registered with Manpada Police Station, Dist. Thane for the offences punishable under Sections 376, 354, 452, 323 and 506 of the Indian Penal Code, 1860 (for short "**IPC**").

3. Applicant is indicted for the aforesaid offences. FIR is appended at page No. 29 of the application wherein it is stated that Prosecutrix is 34 years old and on 27.05.2024 at 5.15 pm one unknown person entered her room and hugged her from behind and molested her and after she ran out of the room he chased her and only on confronting several persons in the vicinity, the said unknown person

ran away from there. Prosecution has recorded statements of neighbors which are appended at page No. 77 onwards of the application.

4. Learned Advocate for the Applicant would submit that these Statements were recorded six days after the incident had occurred but in the interregnum, the FIR which was filed by the first informant has been completely denied by her of she having been filed any such complaint.

5. Learned Advocate has drawn my attention to Page 79 of the application which is the affidavit dated 11.06.2024 filed by first informant wherein she has stated that there was a dispute between the Applicant and her and she approached the Police but the Police recorded her statement and lodged the FIR. The said affidavit also categorically states that police recorded her statement in Marathi and the contents of the FIR were not explained and read to her either in Hindi or Bengali which are the only languages that she understands. Prosecutrix has further stated in the affidavit that when she came to know about the fact that Applicant was arrested on the basis of her complaint under Section 376 of the IPC, she has categorically denied that any such incident had ever been happened between them as stated in the FIR and that allegations made in the FIR are completely false and not within her knowledge neither she has made any such complaint against the Applicant in the police station. Records prima

facie shows that this affidavit was on the record before the trial court rather right from the remand stage itself, but it has not formed the part of charge-sheet. Reference to the same is also made in the order rejecting the bail application of the Applicant by the trial court.

6. Be that as it may, considering the above *prima facie* inconsistency / infirmity as brought out in the statement of the first informant and the affidavit filed by her which goes to the root of the matter, the case of Applicant for grant of bail deserves consideration.

7. 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.25,000/- with one or two sureties in the like amount;

(ii) Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000 /- 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 Saturday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Saturday 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.

8. 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.

9. Bail Application is allowed and disposed.

Laxmi Sontakke

[MILIND N. JADHAV, J.]

Digitally signed
by RAVINDRA
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