

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

BAIL APPLICATION NO.3801 OF 2025

Prashant Sanjay Avhad

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Mr.Ashif Husain i/by Mohd Qais Shakil Ahmed, *for the Applicant.*

Ms. Anuja S. Gotad, *APP for the Respondent No.1 - State.*

Mr. Jugal Kanani, *appointed Advocate for the Respondent No.2 through legal aid.*

PI – Jyoti Hibare, Santacruz Police Station, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 14TH OCTOBER 2025

PC:-

1. By order dated 7th January, 2025, this Court had appointed Mr.Kunal Aher, learned Advocate was appointed to represent and espouse the cause of Complainant / Respondent. When the matter is called out, he is not present in the Court. Hence, in his place, Mr.Jugal Kanani, learned Advocate is appointed to represent and espouse the cause of Respondent No.2. The matter was thus kept in the after noon

session, so as to enable Mr. Kanani to take instructions from the Respondent No. 2 who is present in court.

2. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.325 of 2025 dated 6th April, 2025 registered with the Santacruz Police Station, for the offences punishable under Sections 123, 309(6), 351(2), 64(2)(d), 77 and 79 of the Bhartiya Nyaya Sanhita, 2023 ('BNS').

3. The facts of the present case, in brief, are that the first informant / complainant is married and 31 years of age. She lives with her mother and has two children. On 16th March, 2024, when the complainant and her husband were traveling together in railway, he struck up a friendship with the first informant and exchanged mobile numbers. It appears that the Applicant and the first informant continued meeting and developed a relationship. It is alleged that the Applicant lured the first informant to part with some cash as well as 11 grams of gold jewelry. When the first informant requested the

Applicant to return her money, he refused to do so and assaulted her. She realized that the Applicant was simply playing with her feelings and was only interested in extracting money and jewelry from her. Hence, she filed a complaint and subsequently the FIR is registered.

4. The Applicant had filed a Bail Application before the Ad-hoc & Additional Sessions Judge, Greater Bombay, however, by order dated 11th August, 2025, said bail application was rejected. Hence, the Applicant has filed present Bail Application for the reliefs as prayed.

5. Mr. Husain, learned counsel for the Applicant, submits that the relationship between the Applicant and complainant was consensual in nature and it was only when there was some dispute regarding money, that the first informant filed a complaint. He submits that Applicant was arrested on 18th April, 2025 and since then he is in custody. He submits that the charge-sheet is filed but charges are not framed as yet. He submits that Applicant has no antecedents.

In these circumstances and considering that the relationship between the complainant and Applicant was consensual, the Applicant be granted bail.

6. Per contra, Ms.Gotad, learned APP, resists the Bail Application. She submits that there is a statement of the first informant recorded under Section 164 of the Cr.PC, 1973, which is consistent with the story narrated by her at the time of registering the FIR. She submits that the Applicant has physically and sexually assaulted the Applicant and the offence is serious. In these circumstances, she submits that the Bail Application be rejected.

7. Mr.Jugal Kanani, learned Advocate who is appointed to represent Respondent No.2 / complainant, has taken instructions from the complainant. The complainant is also present in Court today. He concedes that although there was an element of consensual relationship, there was no consent for sexual relationship as well as the exploitation. He submits on instructions that the Applicant had threatened

complainant with some photographs, which the Applicant purported to have taken on his smartphone. The said phone is not recovered as yet and it is likely that the Applicant may use the said photographs to the detriment of the complainant. He thus, supports the arguments of Ms.Gotad and resists the Bail Application.

8. I have heard learned counsels for the respective parties and perused the record with their assistance.

9. A plain reading of the FIR indicates that the complainant had accompanied the Applicant willingly to various places at her own wish and will. Although, it is stated in the FIR that her consent to sexual relations was not free, it does appear that there may have been some element of consent in the sexual relationship.

10. Considering that both the parties are married to their independent spouses and that there are children involved and also that the Applicant has suffered

incarceration of six months, I am inclined to grant bail to the
Application on the following terms and conditions:-

ORDER

- i) The Applicant be enlarged on bail, on
executing PR Bond in the sum of Rs.20,000/ with
one or two local sureties in the like amount;
- ii) The Applicant after his release on bail shall
not contact / communicate in any manner, either
virtually or physically, with any of the relatives of the
complainant or the complainant herself;
- iii) The Applicant shall attend the Trial Court
concerned on each and every date unless exempted
by the orders of the Trial Court concerned;
- iv) The Applicant shall also attend the Police
Station concerned once in a month between 11:00
a.m. to 02:00 p.m., till the statement of complainant
is recorded;

v) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;

vi) The Applicant shall not leave India, without the permission of the Trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Police Station concerned;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

11. Application is allowed in the above terms and is accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)