

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

Criminal Anticipatory Bail Application No. 879 of 2025

Waman @ Tushar Baban Bhoir
Aged 29 years, Occ. Service,
Residing at : Post Varap,
Tal. Kalyan, Dist. Thane.

... Applicant
(Orig. Accd. No.2)

versus

1. The State of Maharashtra
(At the instance of Kalyan Taluka
Police Station, C.R. No. 261 of 2024)

2. XYZ
Thr. Kalyan Taluka Police Station,
Near Titwala Railway Station,
Vasundri Road, Manda, Titwala.

... Respondents

Mr Amin Solkar, along with Mr Mohd. Taha i/b Misbaah
Solkar, for the applicant.

Mr Prashant Jadhav, APP, for respondent No.1/ State.

Ms Aditi Athawale, for respondent No.2.

Coram: R.N. Laddha, J.

Date: 9 June 2025

P.C.:

By this application, the applicant seeks pre-arrest bail in
connection with CR No.261 of 2024, registered at Kalyan
Taluka Police Station, Thane, for the offences punishable under
Sections 376(2)(n) and 506 read with 34 of the Indian Penal

Code ('IPC').

2. The prosecution alleges that in March 2023, the victim was engaged in a casual conversation with her friends, Gayatri and Rohan, near the Gavdevi temple. At that time, the applicant, who was known to all parties as a mutual acquaintance, approached the group and suggested they spent the evening together in a social setting. Acting on this suggestion, the group moved to a nearby open area where they consumed alcoholic beverages. As the evening progressed, the victim's friends eventually left the location, leaving her alone in the company of the applicant. It is alleged that the applicant took advantage of the situation and forcibly removed her clothes, sexually assaulted her, and thereafter dropped her home. Approximately eight to ten days after the incident, the co-accused allegedly approached the victim and began to intimate her. According to the prosecution, he threatened to disclose her previous encounter with the applicant to her husband, unless she submitted to his demands for a physical relationship. It is further alleged that the matter escalated in May 2023, when the co-accused, showing complete disregard for the victim's consent, is alleged to have repeatedly sexually assaulted her.

3. Heard Mr Amin Solkar, the learned Counsel appearing on

behalf of the applicant, Mr Prashant Jadhav, the learned Additional Public Prosecutor representing respondent No.1/ State, and Ms Aditi Athawale, the learned Counsel appointed for respondent No.2.

4. Mr Amin Solkar, the learned Counsel appearing on behalf of the applicant, contends that the victim is of a legal age and has falsely implicated the applicant in the present crime. He asserts that the allegations made against the applicant are not only unfounded but also suffer from a significant and unexplained delay in reporting. It is pointed out that the alleged incident involving the applicant is said to have occurred in March 2023, whereas the FIR was lodged only in April 2024. According to the learned Counsel, such a prolonged delay, without any reasonable explanation, raises serious doubt about the authenticity and credibility of the allegations. Mr Solkar further contends that the primary allegations in the FIR are directed against the co-accused, who has already been granted bail by the competent Court. The applicant's alleged involvement has not been substantiated by any material evidence collected during the investigation. He submits that the investigation in the present case is complete, and there is nothing to be recovered or discovered from the applicant. The applicant is willing to cooperate fully with the investigating

agency, including submitting himself for medical examination if required, and undertakes to abide by any conditions that may be imposed by this Court.

5. Mr Prashant Jadhav, the learned Additional Public Prosecutor representing respondent No.1/ State, and Ms Aditi Athawale, the learned Counsel appearing for respondent No.2, jointly oppose the applicant's plea for relief and submit that the allegations are of a serious nature. They further submit that the applicant took undue advantage of the circumstances and committed non-consensual act of a sexual nature. Further, it is submitted that the co-accused, a friend of the applicant, later approached the victim and exerted pressure on her to engage in a physical relationship by threatening to disclose details of her prior encounter with the applicant to her husband. This caused the victim emotional distress and fear of social and familial repercussions. In May 2023, the co-accused escalated the situation through repeated acts of coercion and physical misconduct. Mr Jadhav, the learned APP, however, concedes that the investigation in the matter has been concluded and a charge-sheet has already been filed against the co-accused. However, the applicant's medical examination is still pending. He expresses concern that, if released on bail at this stage, there is a possibility that the applicant may not be available for

medical examination and may tamper with the prosecution's evidence.

6. This Court has given anxious consideration to the rival contentions and perused the records.

7. Upon a cursory reading of the complaint, it appears that the alleged incident involving the applicant is said to have taken place in March 2023, whereas the subsequent incidents in May 2023 are attributed solely to the co-accused. There is no allegation that the applicant was involved in or connected to the incidents that occurred in May 2023. Significantly, there is a substantial delay of over 13 months between the alleged incidents involving the applicant and the filing of the present complaint in April 2024. During this intervening period, the victim did not raise any complaint or grievance against the applicant. The complaint, as it stands, does not offer any reasonable or satisfactory explanation for such an extended delay in reporting the alleged offence, particularly as it pertains to the applicant. Furthermore, the learned APP has fairly submitted that, with the exception of the applicant's medical examination, the investigation is otherwise complete. A charge-sheet has already been filed against the co-accused, who has been granted bail. It is not the prosecution's case that there

remains any material to be recovered or discovered from the applicant. The applicant, on his part, has expressed his willingness to cooperate with the investigation and to undergo the requisite medical examination as and when directed. To address concerns regarding tampering with evidence or influencing witnesses, appropriate conditions can be imposed. Hence, the following order:

ORDER

- (i) In the event of the applicant's arrest in connection with CR No.261 of 2024, registered at Kalyan Taluka Police Station, Thane, he shall be released on bail upon executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.
- (ii) The applicant shall attend the concerned Police Station on 12 June 2025 and 13 June 2025 between 11:00 am and 2:00 pm, and as and when required.
- (iii) The applicant, himself or through any other person, shall refrain from contacting the victim in any manner whatsoever.
- (iv) The applicant, himself or through any other person, shall not tamper with the

evidence or influence the witnesses.

8. The application stands disposed of accordingly.

(R.N. Laddha, J.)