

Ajit Pathrikar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 4474 OF 2024

Nagendra Fatehbahadur Singh ...Applicant

Versus

The State Of Maharashtra ...Respondent

Mr. Aseem Naphade *a/w Heena Shaikh i/b AOR, for the Applicant.*

Ms. Poonam P. Bhosale, *APP for the State-Respondent No.1.*

Ms. Manisha Deokar, *for Respondent No.2 (Appointed through Legal Aid).*

PSI – Nileshkumar Jagtap, *Shil Daighar Police Station, Thane City, is present.*

CORAM DR. NEELA GOKHALE, J.

DATED: 05th JANUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 199 of 2023 dated 28th May 2023 registered with the Shil Daighar Police Station, Thane City for the offences punishable under Sections 376-D, 504 and 506 of the Indian Penal Code, 1860 ('IPC').

2. It is the case of the prosecution that the Applicant was in a relationship with a friend named Pankaj, who worked at a

company named Vishwakarma Enterprises, which is engaged in manufacturing of containers. On 28th May 2023, at around 10:00 a.m., the victim went to meet Pankaj. He told her to meet him in his container at 2:00 p.m. Accordingly, she went to his container and was waiting for him inside. Two persons namely Nagendra Singh and Pradeep Singh, unknown to her came in the container, locked the door of the container and sexually assaulted her. They abused her and offered to pay Rs.200/-. After they finished with her, they left the container and went away. Thereafter, the victim confided in her friend Pankaj and proceeded to file a police complaint, pursuant to which the FIR was registered. The Applicant was arrested on 28th May 2023. The victim was 21 years of age at the time of the incident and the Applicant, Nagendra Singh, was 27 years old at that time.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Thane. However, by order dated 7th October 2023, the bail application was rejected. He

once again made an application seeking bail before the Additional Sessions Judge, Thane. However, this application was also rejected by order dated 11th July 2024. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Aseem Naphade, learned Counsel for the Applicant, at the very outset, submitted that the trial has commenced. However, despite three summons being issued to the prosecutrix by the Court, she has failed to attend the trial. Hence, there is no deposition of the victim recorded by the Trial Court. Mr. Naphade tendered the deposition of PW-1 for the prosecution, namely Dr. Priti Sitaram Naykode, Associate Professor at CSM Hospital, Kalwa. Mr. Naphade also pointed to the medical report, which according to him, does not opine about the sexual assault. He further submitted that the Applicant did not have any injuries or bruises and the medical case history simply records “*multiple old healed tears*”. Mr. Naphade also submits that even in the FIR, the prosecutrix has named the two accused. However, in the medical report, she

has clearly stated that the accused were unknown persons. He also submits that there is some discrepancy in respect of the time of the alleged incident. Thus, he submits that in all probability, this is a case of false implication and that the Applicant be enlarged on bail.

5. Ms. Poonam Bhosale, learned APP, on the other hand, resists the Bail Application. She submits that although the prosecutrix is not available to attend the trial, this does not take away the gravity of the offence allegedly committed by the Applicant. The difference in the time of the occurrence of the incident, as pointed out by Mr. Naphade, is not significant enough to determine the question of bail. In any case, Ms. Bhosale submits that the offence is serious and the Bail Application be rejected.

6. Ms. Manisha Deokar, learned Advocate appointed to represent Respondent No.2, supports the case of the prosecution.

7. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

8. I have also gone through the examination-in-chief and cross-examination recorded by the Trial Court of PW-1, namely Dr. Priti. In her cross-examination, she specifically states that any injury after 48 to 72 hours of healing is called as old healed injury. In the medical report, no fresh injury has been found to have been recorded. In any case, as Mr. Naphade has submitted, the Applicant was in a relationship with Pankaj. The prosecutrix has not made herself available for examination before the Trial Court, despite three summons being issued to her. Notice was issued by this Court to her to be served through the Investigation Officer, who has reported that the victim is untraceable.

9. Considering that the Applicant is arrested in the year 2023 and is in custody for the past two and a half years, I am

inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- iv) The Applicant shall not leave India, without permission of the trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

- vi) The Applicant shall inform his latest place of residence and mobile 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 concerned Police Station;
- vii) The Applicant to co-operate with the conduct of the trial;
- viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

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

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

(Dr. Neela Gokhale, J)