

Shubhada S Kadam

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL REVISION APPLICATION NO. 498 OF 2025

Mawiya Asrar Ahmed Shaikh

....Applicant

Versus

The State of Maharashtra and anr.

....Respondents

Ms. Muskaan Memon i/b. Mr. Amin Solkar, Advocate for Applicant.

Mr. S. R. Agarkar, APP for Respondent No.1-State.

Ms. Divya Yajurvedi, Advocate for Respondent No.2(Appointed Advocate).

PSI-S.B. Khonde, Kalyan Railway Police Station, present.

CORAM : SHIVKUMAR DIGE, J.

DATE : 5th MAY, 2026.

P.C. :

1. The challenge in this application is to the order dated 29th October 2025 passed by the learned Additional Sessions Judge-5, Kalyan, below Exhibit 3, whereby the learned Sessions Judge has rejected the discharge application of the applicant.

2. It is prosecution's case that on 2nd January 2024, the complainant was travelling in a train in a general compartment next to the guard cabin of the mail. At around 8:00 pm, while the train was approaching platform No. 4 of Kalyan Railway Station, she felt something pressing against her lower back. Initially, she ignored the sensation, but upon allegedly experiencing it again, she turned around and noticed that

Shubhada S Kadam

an unknown person was standing behind her, who was allegedly pressing his private part against her back through his pants. Upon arrival at platform No. 4 of Kalyan Railway Station, she got down from the train and, after climbing the foot-over bridge, came down on platform No. 1. Thereupon, she allegedly noticed the applicant and decided to confront him and held onto the applicant's haversack bag and called a police havaldar, who apprehended the applicant and brought him to Kalyan Railway Police Station. On the basis of the complaint, an FIR came to be registered against the applicant under Section 75(1)(i) of the the Bharatiya Nyaya Sanhita, 2023 .

3. It is contention of the learned counsel for the applicant that there is absolutely no evidence collected by the police to indicate that the applicant had committed the said offence and that no case is made out against the applicant. Learned counsel submitted that the entire prosecution case is based on the sole statement of the complainant without any independent corroboration, and that there is no direct or circumstantial evidence or statement of independent witness supporting the prosecution's allegations. Learned counsel further submitted that the CCTV footage obtained by the police pertains to platform No.1 of Kalyan Railway Station and not of platform No. 4, so as to indicate that the applicant was travelling in the same bogie as that of the complainant.

Shubhada S Kadam

Learned counsel further submitted that the complainant did not raise an alarm or inform any fellow passenger during the alleged incident in the train compartment itself, which was overcrowded with passengers. No CCTV footage is produced on record to show that the applicant had alighted at platform No. 4 from the said train. There is no evidence on record to establish that the complainant had, in fact, travelled by the said train on the date and time alleged, and that the prosecution has failed to annex any valid travel ticket or railway pass of the complainant in the charge-sheet. In the absence of such foundational proof of travel, it is submitted that the entire substratum of the prosecution's case stands vitiated. In support of her contention, learned counsel for the applicant has relied on *Naresh Aneja Versus The State of Uttar Pradesh and ors. reported in MANU/SC/0012/2025.*

4. It is contention of learned APP along with the learned counsel for respondent No.2 that the applicant was immediately caught by the on-duty police at the railway station and was immediately identified by the complainant. There is CCTV footage produced on record to show that the applicant was going towards platform No. 1 and the complainant noticed him and, thereafter, she was seen waving towards the police personnel on duty at station, who apprehended the applicant. The incident has taken place in the train and that the applicant was present at the railway station

Shubhada S Kadam

platform. It is submitted that sufficient material is produced on record against the applicant. The learned Sessions Judge has passed a well-reasoned order and no interference is required in it, and requested to reject the application.

5. I have heard both learned counsel, perused impugned order and documents produced on record. While rejecting the discharge application, the Trial Court has observed that there is a prima facie case against the applicant to frame charge and that there is no reason to disbelieve the statement of the complainant. I do not find any infirmity in it. In my view, the alleged act of outraging modesty took place in the train. The reason why the complainant did not raise her voice against the act of the applicant is part of trial. However, when she noticed the applicant on platform No. 1, she immediately informed the police and caught hold of the applicant. The applicant and the complainant are unknown to each other, and there is no reason for the complainant to falsely implicate the applicant.

6. The fact that no CCTV footage of platform No. 4 is produced on record to show that the applicant alighted from the train is not sufficient to discard the prosecution's case at this stage. The complainant was proceeding towards her destination but upon noticing the applicant at platform No.1 and seeing the police officer, she immediately informed the

Shubhada S Kadam

police officer about the act done by the applicant and by that time co-passengers may not have been available. Mere non-recording of statements of co-passengers cannot be fatal to the prosecution's case. There is no reason for the complainant, who is a lady, to falsely allege about outraging her modesty.

7. I have gone through the case-laws cited by the learned counsel for the applicant. The facts of the cited cases are different from the present case. Hence, I pass following order :

O R D E R

1. The application is rejected.

(SHIVKUMAR DIGE, J.)