

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 3468 OF 2025

Zehaan Subhasish Das ...Applicant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Ali Kaashif Khan Deshmukh, Snigdha Khandelwal, Farid
Shaikh, Abrar Burondkar for the Applicant.

Ms. Veera Shinde, APP for the Respondent-State.

Mr. Tanay Mandot for the Respondent No.2

C.S. Ahire, P.I. Pantnagar Police Station, Mumbai.

CORAM: R. M. JOSHI, J.

DATED: 18th APRIL, 2026

PC:-

1. This application for regular bail has been filed in connection with C.R. No.415 of 2025 registered with Pant nagar Police Station, Mumbai for offence punishable under Sections 64 (2)(m) of Bharatiya Nyaya Sanhita, 2023 (for short "BNS") and Sections 66(E) 67(A) of Information Technology Act, 2000 (for short "IT Act").

2. It is the case of the prosecution that: Ms. XYZ, hereinafter referred to as the First Informant/Respondent No.2, lodged report

to concerned Police Station. She filed a complaint on 16th March 2025 through an NGO detailing a series of distressing incidents involving the Applicant. It is submitted that the First Informant met the Applicant through the Tinder Dating Application in 2021, after which they began communicating online and over the phone, eventually becoming friends. The Respondent No.2 met the Applicant for the first time on 28th December 2021 at McDonald's, Shoppers Stop, Chembur West, Mumbai, followed by another meeting on 9th January 2022 at Odeon Domino's, where they shared a meal. The First Informant frequently travelled to Delhi for work, and in 2023, during a job interview trip, she stayed at the Applicant's residence at Building No. 02, Plot No. 06, near Mother Dairy, Syed Ul Azad, Saket, New Delhi, for four days due to lack of accommodation. During this stay, the Applicant forcibly engaged in sexual intercourse with her despite her refusal.

3. The First Informant and the Applicant continued to meet intermittently. In August 2024, the First Informant visited Applicant's residence in Mumbai at 304 Leena Heritage, Grant Road, where he was alone. Herein, the Applicant forcibly engaged

in sexual intercourse and recorded the act on his mobile phone without her permission.

4. When the Applicant faced financial difficulties due to losses in his hotel business, the First Informant provided him with Rs 25,000 monthly, totalling Rs. 2 lakh, and he took Rs 1 lakh loan in her name from the Slice App, which he later repaid in stages. The First Informant decided to end her relationship with the Applicant and began working from home. On 3rd December 2024, the Applicant sent her a false notice claiming she owed him Rs 3 lakh, prompting her to briefly unblock and communicate with him.

5. Upon her refusal to meet in Delhi, the Applicant threatened to make the recorded photos and videos of their intercourse viral. He subsequently sent these private materials to the mobile phones of her mother, sister and her company's employee causing significant defamation and distress to the First Informant.

6. Learned counsel for the applicant submits that the First Information Report itself indicates that this is a case of consensual relationship between two adult persons. It is her submission that in the facts of the case, after conclusion of the investigation, with filing of chargesheet, applicant is not required to be kept in jail. It

is further submitted that except in the alleged statement recorded during the course of investigation, there is no evidence in order to indicate that the applicant established forcible physical relationship with the informant and took her obscene photographs and videos and published them. It is also argued that the arrest of applicant is in violation of fundamental rights guaranteed under the constitution, as the ground of arrest were not provided to the applicant. On these among other contentions, bail is sought.

7. Learned counsel for the Respondent No.2 opposed the application by pointing out the fact that the applicant, against will of the informant, forcibly established a physical relationship with her. It is his contention that the WhatsApp chats between applicant and informant indicate so. In this regard, reference is made to the WhatsApp chats filed along with affidavit-in-reply of the informant. It is further argued that the applicant had sent email to the informant confirming the fact that he had sent photos and videos of their relationship to her family members. It is submitted that this entire material does not indicate any consensual relationship between applicant and informant. He has also made serious grievances with regard to the manner in which the investigation

has been carried out. On the previous date of hearing, he made specific submission that those statements were not recorded indicating that they having received photos and videos of the informant, the evidence in this regard was not seized. It is also claimed that even mobile phone of the informant was not seized by the Investigating Officer.

8. Considering the said submissions, this Court found it fit to seek explanation from the Investigating Officer. An affidavit came to be filed by Police Inspector, Pantnagar, Police Station Mumbai. Though it is claimed in the said affidavit that investigation has been carried out in proper manner, the affidavit further shows that the mobile phone of the informant was also not seized during the investigation. The said seizure came to be done on 08.04.2026. This therefore indicates that the investigation has not been done here in this case in proper manner. This order therefore, needs to be sent to the Superior Officer for appropriate consideration.

9. Learned APP opposed the application by contending that this cannot be considered to be the case of consensual relationship between informant and applicant. It is submitted that the material on record clearly shows the relationship being non- consensual

and forcible in nature. It is further submitted that the applicant had complete knowledge of the grounds of arrest and hence though he was represented through the Lawyer before the remand Court as well as Sessions Court, no grievance in that regard has been made. It is contended that in view of the judgment of Hon'ble Supreme Court ***Sri Darshan*** unless prejudice is shown to have been caused by the applicant, he is not entitled for bail.

10. As far as the allegations in the First Information Report are concerned, they are supported by material collected during the course of investigation. There is an email sent by the applicant indicating that he had sent photos and videos of informant in relationship to the witnesses. The statements of witnesses lend further support to the same. Apart from this, the WhatsApp Chat placed on record by the informant indicates that the physical relationship between the informant and the applicant was not consensual in nature. In the light of the fact that there is no proper investigation carried out in this case, the said indisputable material becomes relevant and cannot be ignored. Thus, this Court finds no substance in the contention of the learned counsel for the applicant that this is a case of consensual sexual relationship between applicant and

informant. The manner in which the applicant has treated the informant including act of sending her photos and videos to the member of family and others indicate that this is not a case of love affair but case of foisting of the sexual relationship on the informant.

11. In so far as the grievance now sought to be made with regard to the non-furnishing of the ground of arrest is concerned, it would be relevant to take note of the judgment of the Hon'ble Supreme Court in the case of *State of Karnataka Vs. Sri Darshan etc. Cr. Appeal Nos. 3528-3534 of 2025*.

20.1. Delay in furnishing the ground of arrest cannot by itself, constitute a valid ground for grant of bail.

20.1.1. The learned counsel for the respondents- accused contended that the arrest was illegal as the ground of arrest were not furnished immediately in writing, thereby violation Article 22(1) of the Constitution and Section 50 Cr.PC. (now Section 47 of the Bharatiya Nagarik Suraksha Sanhita). This submission, however, is devoid of merit.

20.1.2. Article 22(1) of the Constitution mandates that "no person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds for such arrest, nor shall he be denied the right to consult, and to be defended by , a legal

practitioner of his choice". Similarly, Section 50(1) Cr.P.C. requires that "every police officer or other person arresting any person without warrant shall forthwith communicate to him full particulars of the offence for which he is arrested or other grounds for such arrest.

20.1.3 the Constitutional and statutory framework thus mandates that the arrested person must be informed of the grounds of arrest - but neither provision prescribes a specific form or insists upon written communication in every case. Judicial precedents have clarified that substantial compliance with these requirements is sufficient, unless demonstrable prejudice is shown.

20.1.4. In *Vihaan Kumar v. State of Haryana*²², it was reiterated that Article 22(1) is satisfied if the accused is made aware of the arrest grounds in substance, even if not conveyed in writing. Similarly, in *Kasireddy Upender Reddy v. State of Andhra Pradesh*²³, it was observed that when arrest is made pursuant a warrant, reading out the warrant amounts to sufficient compliance. Both these post-Pankaj Bansal decisions clarify that written, individualised grounds are not an inflexible requirements in all circumstances.

20.1.5. While Section 50 Cr.P.C. is mandatory, the consistent judicial approach has been to adopt a prejudice-oriented test when examining alleged procedural lapses. The mere absence of written grounds does not ipso facto render the arrest illegal, unless it results in demonstrable

prejudice or denial of a fair opportunity to defend.

20.1.6. The High Court, however, relied heavily on the alleged procedural lapse as a determinative factor while overlooking the gravity of the offence under Section 302 IPC and the existence of a *prima facie* case. It noted, *inter alia*, that there was no mention in the remand orders about service of memo of grounds of arrest (para 45); the memos were allegedly template -based and not personalised (para 50); and eyewitnesses had not stated that they were present at the time of arrest or had signed the memos (para 48). Relying on ***Pankaj Bansal v. Union of India***²⁴ and ***Prabir Purkayastha v. State (NCT of Delhi)*** (supra), it concluded (paras 43, 49 -50) that from 03.10.2023 onwards, failure to serve detailed, written, and individualised grounds of arrest immediately after arrest was a violation entitling the accused to bail.

20.1.7. In the present case, the arrest memos and remand records clearly reflect that the respondents were aware of the reasons for their arrest. They were legally represented from the outset and applied for bail shortly after arrest, evidencing an immediate and informed understanding of the accusations. No material has been placed on record to establish that any prejudice was caused due to the alleged procedural lapse. In the absence of demonstrable prejudice, such as irregularity is, at best, a curable defect and cannot, by itself, warrant release on bail. As reiterated above, the High Court treated it as a determinative

factor while overlooking the gravity of the charge under Section 302 IPC and the existence of a *prima facie* case. Its reliance on *Pankaj Bansal* and *Prabir Purkastha* is misplaced, as those decisions turned on materially different facts and statutory contexts. The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not *ipso facto* render custody illegal or entitle the accused to bail.

12. In the light of the abovesaid observations, it could be said in the instant case that the applicant was duly represented by a lawyer of his choice before the remand Court so also before the Sessions Court and at no point of time any grievance was made with regard to the non-providing of grounds of arrest furthermore no prejudice is shown to have been caused to the applicant.

13. Having regard to the serious nature of offence and in view of the law laid down by the Hon'ble Supreme Court in the case of *Sri Darshan (supra)*, this is not a fit case to grant bail.

14. Hence, Application stands dismissed.

(R. M. JOSHI, J.)