

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3953 OF 2025

Faizal Shehzad Khan	...Applicant
<i>Versus</i>	
State of Maharashtra & Anr.	...Respondents

Mr. Piyush S. Chhabria, for the Applicant.
Ms. Sangeeta D. Shinde, APP for the Respondent-State.
Mr. Komal Sinha, for the Respondent No.2.
Mr. Jayendra Bhoyar, API attached to Tilak Nagar Police Station,
Dombivali, present.

CORAM: R. M. JOSHI, J.
DATED: 18th MARCH, 2026.

PC:-

1. The Applicant is seeking regular bail in connection with Crime No.0258 of 2025 dated 9th April 2025 registered with Tilak Nagar (Dombivali) Police Station, Thane City, for offences punishable under Sections 64(2)(j) and 64(2)(k) of the Bharatiya Nyaya Sanhita, 2023 ('BNS').

2. It is the case of the prosecution that a major Victim with mental retardation was subjected to sexual assault on 6th April 2025. On the basis of statement made by her to her mother, it was learnt that she was abused by an auto-rickshaw driver by taking her to the spot of the incident. She also narrated the specific acts done with her by the perpetrator. On the basis of the report, the

offence came to be registered against unknown person. The Applicant was arrested on 9th April 2025. On conclusion of investigation, charge-sheet came to be filed on 24th May 2025.

3. Learned counsel for the Applicant submits that the Informant has not given description of the perpetrator of the crime in question and there was absolutely no evidence in order to arrest the present Applicant in the crime in question. He drew attention of the Court to the charge-sheet, which according to him, indicates that even in the CCTV footage, the registration number of the auto-rickshaw was not seen nor the driver could be noticed. According to him, in the charge-sheet, there is no evidence in order to accept the complicity of the Applicant in the crime.

4. In response to the said submissions, the learned APP drew attention of the Court to the identification parade conducted on 25th June 2025 wherein the Applicant is stated to have been identified by the Victim. It is submitted that having regard to the nature of offence, this is not a fit case for grant of bail.

5. Learned counsel for the Victim also opposed the Application. It is her contention that there is sufficient evidence in the form of identification parade to accept the involvement of the Applicant in the serious crime. Learned counsel for the Victim submits in case, the bail is granted to the Applicant, he is likely to pressurize the Victim, who is mentally challenged lady so also, the other witnesses.

6. In response to this, learned counsel for the Applicant, on instructions, makes a statement that the Applicant will not enter jurisdiction of the Tilak Nagar Police Station.

7. Perusal of the charge-sheet does not indicate that any description of the perpetrator of the crime was given by the Victim. It also shows that till the conclusion of the investigation, i.e., at the stage of filing of the charge-sheet, there was no evidence on record in order to connect the Applicant with the crime. It is only after filing of the charge-sheet, the identification parade was conducted wherein the Applicant is said to have been identified by the Victim. Though, the learned APP has brought to the notice of this Court that communication was done with the concerned authorities for conducting identification parade on 28th April 2025 and even thereafter parade could not be conducted before 25th June 2025, but considering the time within which charge-sheet has been filed, it was open for the Investigating Agency to wait for completion of the identification parade. However, charge-sheet came to be filed without any evidence against the Applicant/Accused.

8. Now this Court finds substance in the contention of the learned counsel for the Applicant that since there was no evidence to connect the Applicant with the crime and as he was arrested, identification parade was conducted after filing of the charge-sheet. In any case, this is a weak piece of evidence available on record. The Applicant has no criminal history. The Trial is not likely to get over within a reasonable period of time. Hence, it is a fit case for grant of bail and accordingly, the following order is passed:-

ORDER

(i) The Bail Application stands allowed in connection with Crime No.0258 of 2025 dated 9th April 2025 registered with the Tilak Nagar (Dombivali) Police Station, Thane City ;

(ii) The Applicant be released on furnishing P. R. Bond in the sum of Rs.15,000/- with one surety in the like amount to the satisfaction of the Trial Court;

(iii) The Applicant has undertaken not to enter local jurisdiction of the Tilak Nagar Police Station, Dombivali till conclusion of the trial;

(iv) The Applicant not to contact Victim or any witness in any manner whatsoever;

(v) 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.

9. The Bail Application is accordingly disposed of.

(R. M. JOSHI, J.)

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