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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 732 OF 2026

Jiyan Alias Faiz Nadir Shah Kadari .. Applicant

Versus

The State of Maharashtra and Anr. .. Respondents

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- Mr. Tohid Shaikh a/w. Mr. Onkar Gurav, and Ms. Anjali Patil, Advocates for Applicant.
- Ms. Rajeshree V. Newton, APP for Respondent – State.
- PSI – Mr. Sagar S. Pawar, Kondhawa Police Station, Pune present.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 19, 2026

P.C.:

1. Heard Mr. Shaikh, learned Advocate for Applicant and Ms. Newton, learned APP for Respondent – State.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with C.R. No.657 of 2025 registered with Kondhwa Police Station for offences punishable under Sections 64(1) and 351(2) of the Bharatiya Nyaya Sanhita, 2023.

3. Applicant and the Complainant – victim who is a woman were in a consensual relationship intimately. When the victim's husband came to know about their liaison and affairs and when they both were caught in the victim's own house, First Informant – Victim

filed the present complaint.

4. Allegation in the First Information Report (FIR) is that Applicant had forceful physical relationship with the victim on several occassions, including inside her own house, but the material which is *prima facie* unearthed by the prosecution on the basis of the victim's statements *prima facie* shows that both Applicant and victim were not only known to each other, but were in a consensual relationship for long and the material *prima facie* also shows that Applicant used to visit victim's flat where she was residing and also used to have physical relationship with her.

5. In view of the above observations which are borne out from the record and despite giving opportunity to Respondent No.2 – victim to remain present in Court for appointing Advocate as per her own request which was noted in the order dated 15.10.2026, when the matter is called out today, the victim has not appointed any Advocate. She has instead today sent a message through the Police Officer attending the Court that an Advocate be appointed to represent her through the Legal Aid.

6. Today, the learned Prosecutor on instructions from the concerned Investigating Officer informs the Court that Respondent No.2 desires appointment of Advocate through Legal Aid. What is noted by the Court in the order dated 15.10.2026 has come true. All

that Respondent No.2 desires in the present case is to protract the present proceedings. It is an irony that this Application was first heard by this Court on 26.02.2026 (Coram: Dr. Neela Gokhale, J.). Thereafter, every judge who has been assigned this roster has had the opportunity of hearing this matter and adjourning this matter.

7. Notice has been issued in this matter on 06.03.2026 and it is a travesty that till today Respondent No.2 – victim has been successful in evading her appearance before the Court and has protracted the matter.

8. Be that as it may, considering the strong facts in the present case about the relationship between parties being consensual and the victim herself approving the same without any force or violence, which is *prima facie* seen not only from the witness statements recorded by the prosecution, but also on the basis of the WhatsApp chats which are appended to the present Application between Applicant and victim, I have no doubt in my mind that both Applicant and victim were in a consensual relationship with each other. In that view of the matter, the allegation in the FIR about forceful relationship cannot be sustained at the threshold for refusal of bail.

9. Hence, in view of above *prima facie* observations and findings, Bail Application of Applicant is allowed subject to the following terms and conditions:-

(i) Applicant – Jiyan Alias Faiz Nadir Shah Kadari is directed to be immediately released from prison in connection with CR. No.657 of 2025;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Thousand only) with one or two sureties in the like amount;

(iii) Applicant shall report to the Investigating Officer at concerned Police Station, once every month, on the first Monday of the month between 10:00 a.m. to 12:00 p.m. until commencement of trial and thereafter shall attend all dates of hearing before the Trial Court;

(iv) Applicant shall cooperate with the conduct of the trial and remain present before the Trial Court on all dates, unless specifically exempted. Applicant shall not seek unnecessary adjournments. Any such conduct shall entitle the prosecution to apply for cancellation of bail;

(v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;

(vi) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vii) Applicant shall keep the Investigating Officer informed of his current residential address and mobile telephone number and shall forthwith inform the Investigating Officer of any change in his residential address or mobile telephone number, as and when such change occurs; and

(viii) Any breach or infraction of any of the aforesaid conditions shall entail cancellation of the bail granted to the Applicant.

10. It is clarified that the observations made in this order are limited for the purpose of granting bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made hereinabove in this order.

11. Bail Application is allowed and disposed in the above terms.

[MILIND N. JADHAV, J.]

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AJAY TRAMBAK UGALMUGALE

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Date: 2026.10.19 19:36:02 +0530