



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

2 BAIL APPLICATION NO. 1165 OF 2026

Tukaram Narayan Kini

VERSUS

The State Of Maharashtra And Another

...

Mr. Ajinkya Reddy - Advocate for Applicant

Mr. K. K. Naik - APP for the State

...

CORAM : HITEN S. VENEGAVKAR, J.

DATED : 31ST AUGUST, 2026

ORAL ORDER :

1. Heard learned Advocate for the Applicant and the learned APP for the State.

2. In addition to the oral submissions, the learned Advocate also tendered written notes of arguments on behalf of the Applicant. Upon a specific query as to whether the written notes of arguments contained anything in addition to what had been canvassed orally by the learned Advocate for the Applicant, he submitted that everything contained in the written notes has already been orally argued and that nothing remained to be argued.

3. The entire investigation report, prepared upon completion of the investigation, has been annexed to the present application.

Therefore, with the assistance of both the learned Counsel, I have perused the entire record.

4. The present application seeks regular bail in connection with C.R. No. 0053/2026 registered with Udgir City Police Station, District Latur, for the offences punishable under Sections 74, 351(2), 351(3), and 333 of the Bharatiya Nyaya Sanhita, 2023, Sections 8, 10, and 12 of the Protection of Children from Sexual Offences Act, 2012, and Section 92(b) of the Rights of Persons with Disabilities Act, 2016. The Applicant was arrested in connection with the aforesaid crime on 02.03.2026.

5. It is the case of the Prosecution that the present Applicant and the mother of the Victim were acquainted with each other and, therefore, during the initial days of their acquaintance, the Applicant had access to the house of the Victim. The mother of the Victim is separated from her husband and, therefore, has been residing with her daughters in her mother's house for several years. The informant in the present case is the grandmother of the Victim, who, at the relevant time, was at home and had gone to a neighbouring person's house for some work when the alleged incident took place. The informant has alleged that, on 02.03.2026, when she was away from the house for some work, her two granddaughters were present in the house. Upon her return, she found the present Applicant standing outside the door. Upon inquiry, he

informed her that he had come to hand over garlands of Holy to the children. Upon that, the informant categorically told the Applicant that he should not come home as her granddaughters are alone in the house. When the informant went inside the house, the Victim was profusely crying and therefore upon making inquiry, the Victim, who is deaf and dumb, narrated the incidence of sexual harassment caused to her by the Applicant. It is alleged that, by means of hand signs, she informed the Complainant that the Applicant had entered the house, given money to her sister, and asked her to go to the shop. After the sister had left, the Applicant started kissing her and fondling her chest. The informant also alleged that, thereafter, the Victim removed her T-shirt and showed the abrasions allegedly caused by the Applicant on her chest. Upon making further inquiries with the Victim, she informed the Complainant that the Applicant had threatened her that, in case she disclosed the incident to anybody in the house, he would kill her. Thereafter, the Complainant immediately informed the mother of the Victim about the incident over the telephone. Subsequently, the incident was reported to the police, and an offence came to be registered as C.R. No. 0053/2026 with Udgir City Police Station, District Latur, for the aforesaid offences.

6. During the course of the investigation, the statement of the mother was recorded, wherein she categorically stated that she and the Applicant had been acquainted with each other for the last several years.

However, she had ceased to remain in contact with him for more than two years prior to the date of the incident. She also stated that, as flooring work was being carried out in her house, she had placed an order for tiles. The tiles were delivered in a small auto-rickshaw, and the present Applicant was one of the persons who assisted in unloading and carrying the tiles from the auto-rickshaw into her house. The mother thereafter narrated the incident as it had been informed to her by the Complainant.

7. The learned Advocate for the Applicant vehemently argues that this is a case where there are no independent witnesses in support of the Prosecution's case. He submits that, despite there being an opportunity available to the Prosecution to record the statement of an independent witness, the Prosecution has failed to record any such statement. He relies upon the spot *panchanama* to submit that there are residential houses surrounding the house of the Victim and that the alleged incident took place in broad daylight. He thus submits that, it cannot so happen that the neighbors were unaware about the incident. He thereafter argued that, the injuries that are alleged to have been found on the chest of the Victim are not the injuries that can be caused by nails. He refers to Injury Certificate of the Victim and submits that the nature of injury is abrasion on the left breast and the weapon that is used to cause simple injury is hard and blunt. According to him, human

nails cannot be termed as hard and blunt. He thus submits that, even the injury does not support the case of the prosecution. Thereafter, he relied upon the school certificate annexed in the Charge-sheet to submits that the school in which the victim is studying is the school for normal children and not for the children with physical disability. Thus, this falsifies the prosecution story that the Victim is physically disabled.

7.1. He further argues that, the Victim is unable to understand special language of signs. In order to substantiate his submissions, he relies upon the statement recorded of the Victim. He submits that, the statement dated 25.03.2026 mentions that, a communication was established with the Victim on the basis of the special language but the statement of the expert dated 25.03.2026 categorically mentions that the Victim does not have basic and fundamental knowledge about the special language. He thus submits that the statement of the Victim is false and cannot be relied upon.

7.2. He further submits that, the Chemical Analyzer's report pertaining to the nail clippings is still awaited.

7.3. He then argues that the Applicant and the mother of the Victim had been in a live-in relationship for several years and that the Applicant has been falsely implicated only because his relationship with the mother of the Victim had ended on account of the Applicant's

intention to marry another woman. He places reliance upon the statement of the informant, wherein she has categorically stated that her daughter has been residing separately from her husband for the last nine years. Secondly, the learned Advocate places reliance upon the statement of the mother of the Victim, wherein she has categorically stated that she was acquainted with the Applicant as a friend. He thus submits that the present Applicant has been falsely implicated in the present offence. He further submits that the Applicant has been in Jail since 02.03.2026 and that, as the Charge-sheet has already been filed and the investigation has been completed, no further custodial interrogation is required. He therefore submits that the Applicant's continued custody is unwarranted and prays for his release on bail.

8. Per contra, the learned APP for the State argues that the Victim is aged about 13 years and is a person with a physical disability, whereas the Applicant is 27 years old. He submits that the allegations are grave, serious, and heinous in nature where a minor girl who is physically disabled has been subjected to sexual harassment by the present applicant. He argues that there are specific allegations made by the minor Victim as to how and when the sexual assault and harassment were caused to her at the hands of the present Applicant. The allegations have been sufficiently corroborated by the statements of the informant and the mother of the Victim and, more importantly, by the

statement of the minor Victim herself. He further argues that the allegations are substantiated by the Injury Certificate of the Victim, wherein the injuries sustained by her on the parts of the body where the alleged sexual assault and harassment took place have been clearly mentioned. He submits that there is no reason for the minor Victim to falsely implicate the present Applicant in an offence of such nature. He, therefore, submits that the present Application be dismissed.

9. I have perused the entire record and considered the submissions advanced by the learned Advocate for the Applicant as well as the learned APP for the State. Before proceeding to decide the present Application on the merits of the allegations and the prosecution case, it is necessary to place on record that the submission of the learned Advocate for the Applicant that the Applicant was in a live-in relationship with the mother of the Victim, and his attempt to place certain photographs of them on record in support thereof, cannot be accepted at this stage. At the stage of considering an application for bail, the Court is required to arrive at a *prima facie* conclusion on the basis of the material collected during the investigation and cannot take into consideration anything beyond the scope of such investigative material. To some extent, these documents could have been considered by this Court if it were established that the Applicant or any of his family members had made even a remote attempt to submit these documents

to the Investigating Agency for verification and consideration during the course of the investigation. As on date, even upon a specific query raised to the learned Advocate for the Applicant, there is nothing on record to show that these documents were ever tendered or furnished to the Investigating Officer so as to enable him to consider the same during the course of the investigation. Thus, the entire defence sought to be raised to establish that the Applicant has been falsely implicated on account of the severance of his relationship with the mother of the Victim is being canvassed before this Court for the first time. Such a defence will have to be raised before the Trial Court and established on the basis of evidence. The Bail Court cannot proceed to consider such a defence at the stage of deciding an application for bail.

10. Admittedly, the Victim is a minor girl aged 13 years. Though the learned Advocate for the Applicant has submitted that the Victim is studying in a regular school and, therefore, is neither deaf and dumb nor physically disabled, he could not place any reliable document on record in support of his contention. On the contrary, the statements of the witnesses, as well as the statement of the Victim, who was examined by the expert and whose statement was also recorded before the Special Teacher of Samuha Sadhan Kendra, Taluka Udgir, District Latur, are corroborated by the disability certificate of the Victim. The said certificate supports the case of the Prosecution that the Victim is

physically disabled and is unable to hear and speak. Even if we keep aside the statement of the grandmother and the mother of the Victim, still the statement of the Victim herself makes out a *prima facie* case against the present Applicant wherein she has specifically narrated the entire incident as to how she was subjected to sexual assault and harassment at the hands of the present Applicant. The Victim was specifically shown a photograph of the present Applicant, whom she identified as one who has caused sexual assault and harassment to the Victim on the date of incident. The alleged incident took place inside the house of the Complainant, when the Victim was alone in the house and her sister had been sent out by the Applicant himself on the pretext of purchasing certain goods from the shop. Thus, there could not have been any eyewitness to the incident. The submission of the learned Advocate that the statements of the neighbouring witnesses ought to have been recorded merely because their houses are situated around the Complainant's house cannot, by itself, be sufficient to disbelieve the prosecution case at this stage. The Injury Certificate placed on record by the Investigating Officer also indicates the nature of the injury caused to the chest of the Victim allegedly at the hands of the present Applicant. The submission of the learned Advocate that such injury is not possible by nails is a subject of trial and at this stage, *prima facie* the injury certificate supports the allegation of the Victim that the sexual assault was caused by the present Applicant on her chest due to which she has

suffered injuries. Another submission of the learned Advocate for the Applicant, that the Victim does not understand the special language and, therefore, that the statement recorded by communicating with the Victim through the special language cannot be relied upon, is also a submission that cannot be considered at the stage of bail. It is the submission of the learned Advocate that she does not understand the special language but the statement categorically records that she is able to communicate by showing hand signs and with the help of such communication, the statement has been recorded. There is nothing on record to indicate why the statement of the 13-year-old minor Victim should be disbelieved. Merely because the CA report is still awaited, or because, as submitted by the learned Advocate, the Trial Court is presently vacant, cannot constitute ground for releasing the present Applicant on bail in such a heinous offence. The Applicant was arrested on 02.03.2026, and the period of custody undergone by him till date cannot be said to be disproportionate to the offences alleged against him. The offence under Section 8 of the POCSO Act is punishable with imprisonment for a term of not less than three years, which may extend to five years, the offence under Section 10 is punishable with imprisonment for a term of not less than five years, which may extend to seven years, and the offence under Section 12 is punishable with imprisonment for a term which may extend to three years.

11. In the aforesaid facts and circumstances of the case, the present Application stands dismissed.

12. Needless to state, the observations made in the present order are *prima facie* in nature and are confined solely to the consideration of the present bail application. The Trial Court shall conduct the trial on its own merits and in accordance with law.

[HITEN S. VENEGAVKAR]
JUDGE

SG Punde