

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3478 OF 2026

Rohan Suresh Pathade

.. Applicant

Versus

State of Maharashtra & Anr.

.. Respondents

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- Mr. Tuushar N. Sonawane, Advocate for Applicant.
- Ms. Shilpa G. Talhar, APP for State.
- Ms. Harshada Shrikhande, Advocate appointed through Legal Aid a/w Mr. Prathamesh Mandlik, Advocates for Respondent No.2.
- Mr. B. B. Narhe, PSI, Chandwad Police Station, Nashik Gramin present.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 12, 2026

P. C.:

1. Heard Mr. Sonawane, learned Advocate for Applicant; Ms. Talhar, learned APP for State and Ms. Shrikhande, learned Advocate appointed through Legal Aid for Respondent No.2.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking bail in connection with Crime No.174 of 2026 dated 04.05.2026 registered with Chandwad Police Station for the offences punishable under Sections 75 and 107 of the Bharatiya Nyaya Sanhita, 2023 (for short '**BNS**') and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short '**POCSO Act**').

3. Applicant before me is the sole accused 22 years of age and he is in incarceration since 05.05.2026 i.e. 5 months and 7 days pending trial. On 05.08.2026 Additional Sessions Judge, Niphad rejected Applicant's bail in Special Case No. 45 of 2026. Hence, Applicant filed present bail application. Investigation is complete and charge-sheet is filed.

4. Briefly stated, deceased victim - minor girl aged 16 years and 9 months studying in 11th standard committed suicide by consuming pesticide. It is alleged that deceased victim and Applicant were having a love affair. It is alleged that on one occasion Applicant had asked her to remove her clothes which she refused, therefore Applicant and deceased victim got into quarrel. It is alleged that during argument deceased victim told Applicant that she would hurt herself. Applicant replied to her that it would not make any difference to him even if she dies in that case. Therefore, on 02.05.2026 at about 09:00 a.m. deceased victim consumed pesticide called 'karate' when she was at her home. She was immediately admitted to hospital however on 04.05.2026 at 05:30 p.m. during treatment she passed away

5. It is prosecution's case that chits of their love affair were found in the house of first informant. Hence, first informant registered

crime against Applicant to have allegedly abetted the deceased victim to commit suicide because of the quarrel between them.

6. Mr. Sonawane, learned Advocate for Applicant would submit that *prima facie* story put forth by first informant for indicting the Applicant for offences punishable under BNS and POCSO Act and by blaming him for suicide of deceased victim are not tenable in law. He would submit that documents collected during investigation i.e. notes / chits written by deceased victim do not suggest any immediate instigation / abetment by Applicant to commit suicide. He would submit that under these circumstances, allegations if any, are to be certainly tested in trial and as such, Applicant's custody is not required. He would submit that Additional Sessions Judge erred in rejecting the bail application of Applicant merely on basis of notes / chits produced before the Court. He would submit that Applicant is 22 years old having no antecedents and has been falsely implicated in the alleged offence.

7. Ms. Talhar, learned APP for State has vehemently opposed the Bail Application. She would submit that prosecution is desirous of examining 19 prosecution witnesses in trial and the same will be completed expeditiously which would eventually prove the guilt of Applicant as there is sufficient *prima facie* material on record to establish his guilt. She would submit that offence committed by

Applicant is extremely serious and its gravity needs to be taken into consideration by the Court. She would submit that enlarging the Applicant on bail may lead to he tampering with evidence as also influencing the witnesses as Applicant resides in the same vicinity as that of First Informant which would create a hurdle in the trial. Hence she has urged the Court to reject the Bail Application.

8. Ms. Shrikhande, learned Advocate appointed through the Legal Aid to represent and espouse the cause of Respondent No.2 - victim would support the arguments advanced by Ms. Talhar, and additionally would submit that the offence committed by Applicant is extremely serious in nature and in the peculiar facts of the present case it cannot be ignored that there was a love affair between Applicant and deceased victim who was a minor. She would submit that Applicant had made inappropriate requests which made the deceased victim feel uncomfortable and upset. She would submit that Applicant took advantage of the vulnerability of the deceased victim, as such the victim was scared to disclose the said incident to anyone which forced her to take the unfortunate step. However on overall consideration of the material on record, she would submit that complicity of Applicant in the present crime is *prima facie* established and hence she would urge the Court to reject his Bail Application.

9. In the present case what is *prima facie* seen is that Complainant has admitted in her complaint that there was a love affair between Applicant and deceased victim. It is seen that said fact is further corroborated by the statements of Complainant's sister-in-law and her husband appended at page Nos.88 and 90 of the bail application. It is evident from family members' statements that on 28.04.2026 Complainant had noticed the deceased victim talking to the Applicant over the phone and thereafter it was decided to call Applicant for discussion, however Applicant did not turn up for discussion which had upset the deceased victim. The date of incident i.e. 02.05.2026 is in very close proximity of the above date of knowledge of the family members of the victim. Victim's fear is also ascertained and confirmed from her notes / chits with reference to chat with Applicant about the anger and frustration of her family members when they came to know about their association.

10. Further on perusal of the screenshots of WhatsApp, Snapchat and Instagram chats appended at page Nos.51 to 62 it is seen that there is no incriminating material placed on record to *prima facie* indicate that Applicant abetted the deceased victim to commit suicide. There is nothing to suggest that any act of the Applicant had driven the victim to take the ultimate step. Moreover, perusal of chits / notes written by victim before committing the suicide show that

Applicant had infact asked her to wait for 13 months i.e. until she attained the age of majority, which also noted that he would take her with him thereafter. It is further seen from the said notes that the victim had written that whatever she had stated had been told and taught to her by Applicant and that she had been forced by him to make such statements. However, it is seen that none of these materials when considered *prima facie* indicate that the victim was subjected to any harassment or torture by the Applicant so that it would have led her to commit suicide.

11. It is a crystal clear fact that bitterness in love affair between Applicant and deceased victim had upset the deceased victim and this fact was known to all her family members. This is because the family members themselves wanted to meet the Applicant and the victim was therefore worried about the outcome. It is seen that in those circumstances the remaining aspects of the case can be examined and determined during the course of the trial for which custodial interrogation of the Applicant is not required. Therefore, I am of the opinion that Applicant has made out case for grant of bail.

12. It is settled law that a Court while deciding a Bail Application has to keep in mind the principal rule of bail which is to ascertain whether the accused is likely to appear before the court for trial. There are other broad parameters also like gravity of offence,

likelihood of accused repeating the offence while on bail, whether he would influence the witnesses and tamper with the evidence, his antecedents which are required to be considered in such cases.

13. In the case of *Emperor Vs. H.L. Hutchinson*¹, the Allahabad High Court, as far back as in the year 1931 held that power of granting bail conferred on High Court is entirely unfettered by any conditions. It held that legislature has given the High Court and the Court of Session discretion unfettered by any limitation other than that which controls all discretionary powers vested in a Judge, viz. that the discretion must be exercised judiciously. The Court has given primacy to the fact that accused person if granted bail will be in a much better position to defend himself. In this very case, it was delineated that grant of Bail is the Rule and refusal is an exception. This was in the famous Meerut Conspiracy case.

14. Justice Mukerji writing for the Bench held as under:-

“9. Speaking for myself, I think it very unwise to make an attempt to lay down any particular rules for the guidance of the High Court, having regard to the fact that the legislature itself left the discretion of the Court entirely unfettered. The reason for this action on the part of the legislature is not far to seek. The High Court might be safely trusted in this matter and it goes without saying that it would act in the best interests of justice whether it decides in favour of the prosecution or the defence. The variety of cases that may arise from time to time cannot be safely classified and it will be dangerous to make an attempt to classify the cases and to say that in particular classes a bail may be granted but not in other classes.

This being my reading of the law, I proceed to see whether this

¹ AIR 1931 ALL 356

is a case in which the applicants ought to be let out on bail.

On general principles, and on the principles on which sections 496 and 497 (as amended in 1923) are framed, the grant of bail should be the rule and refusal of bail should be the exception. In the case of a bailable offence, the law expressly says that if the accused person applies for bail he shall be released (section 496). Section 497 applies to cases of non-bailable offence and there it is said that the accused person shall be released on bail except where there appears to be a reasonable ground for believing that he has been guilty of a very heinous offence, namely one which may be punished by either death or by transportation for life : section 497(1). Again it is laid down that where, at any stage of the investigation or trial, there are not reasonable grounds for believing that the accused person has committed a non-bailable offence, but there are sufficient grounds for further inquiry into his guilt, the accused shall be released on bail : section 497(2).

The principle to be deduced from sections 496 and 497 of the Criminal Procedure Code, therefore, is that grant of bail is the rule and refusal is the exception. (emphasis underlined) That this must be so is not at all difficult to see. An accused person is presumed under the law to be innocent till his guilt is proved. As a presumably innocent person he is entitled to freedom and every opportunity to look after his own case. It goes without saying that an accused person, if he enjoys freedom, will be in a much better position to look after his case and to properly defend himself than if he were in custody. One of the complaints made by the applicants in this case is that their letters sent from the custody have been opened and inspected and censored, and, therefore, they were not in a position to conduct their defence with the aid of such friends as may be outside the prison. As I have said, it is obvious that a presumably innocent person should have his freedom to enable him to establish his innocence.

This being the rule, there may, of course, be exceptions. I will not attempt to lay down any cases of exceptions, because these cases before us are not exceptions and I do not want to say anything which will be only in the nature of an obiter dictum."

14.1. Justice Boys writing a concurrent view held as under:-

"As to the object of keeping an accused person in detention during the trial, it has been stated that the object is not punishment; that to keep an accused person under arrest with the object of punishing him on the assumption that he is guilty, even if eventually he is acquitted, is improper. This is most manifest. The only legitimate purposes to be served by keeping a person under trial in detention are to prevent repetition of the offence with which he is charged, where there is apparently danger of such repetition, and to secure his attendance at

the trial. The first of these purposes clearly to some extent involves an assumption of the accused's guilt, but the very trial itself is based on a prima facie assumption of the accused's guilt and it is impossible to hold that in some circumstances it is not a proper ground to be considered. The main purpose, however, is manifestly to secure the attendance of the accused."

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

- (i) Applicant - Rohan Suresh Pathade is directed to be immediately released from prison in connection with Crime No.174 of 2026;
- (ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs.20,000/- (Rs. Twenty Thousand only) each with one or two surety of the like amount;
- (iii) Applicant shall report to the Investigating Officer at Chandwad Police Station, once every month on the first Sunday of the month between 10:00 a.m. to 12:00 p.m. until commencement of trial;
- (iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if they does so it will entitle the prosecution to apply for revocation of this order;

- (v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vi) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;
- (vii) Applicant shall keep the Investigating Officer informed of their current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and
- (viii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

16. 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.

17. This Court appreciates the valuable assistance rendered by Ms. Shrikhande, learned Advocate appointed through the Legal Aid to espouse the cause of Respondent No. 2. Her fees be paid by the High Court Legal Aid Services Authority as per rules on production of a server copy of this order and other compliances in accordance with

the decision of this Court in the case of *Sanjyot Nitin Telharkar Vs. The State of Maharashtra & Anr.*² and the Schedule under Regulation 18(1) of the Maharashtra State Legal Services Authority Rules, 1998.

18. Bail Applications is allowed and disposed of in the above terms.

Amberkar

[MILIND N. JADHAV, J.]

HARSHADA
HANUMANT
SAWANT

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by HARSHADA
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² Misc. Civil Application No.134 of 2024 – Decided on 25.09.2024.