



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 49 OF 2025

Rohit s/o Shivaji Mahale
Age : 19 years, Occ. Labour
R/o. Ghanegaon, Tq. Gangapur,
District Aurangabad.

... Applicants

Versus

1. The State of Maharashtra,
Through the Police Officer,
Chhavni Police Station,
Tq. and Dist. Aurangabad.

2. X Y Z

... Respondents

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Mr. S. G. Magre h/f Mr. G. A. Ambildhage, Advocate for the
Applicant.

Mr. P. K. Lakhotiya, APP for Respondent No.1-State.

Mr. V. P. Raje, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Date : 04.03.2025

ORDER :

1. Applicant seeks grant of bail on account of his arrest in crime no. 0579 of 2024 registered at Cantonment (Chawni) Police Station, District Chhatrapati Sambhajnagar for offences punishable under Sections 4(2) & 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and under Sections 64 and 78 of the Bharatiya Nyaya Sanhita (BNS).

2. Pointing to the date of arrest of the applicant as 22.11.2024, learned counsel emphasized that applicant is barely 19 years of age. That, there was acquaintance victim and accused being residents of same locality. He submitted that mother has lodged report on hearsay information. He further pointed out that there was long association and acquaintance and there was never any force or threat. That, victim has given statement under pressure. That, medical evidence does not suggest forceful intercourse. Learned counsel also submitted that, before Doctor, victim refused examination. That, now investigation is over and charge sheet is already filed in December 2024 itself. Thus, accordingly to learned counsel, when nothing is shown to be recovered or discovered at his instance and as applicant is ready to abide all and any conditions imposed by this Court, considering his young age, learned counsel urges for grant of bail.

3. Both, learned APP as well as learned counsel for the respondent victim, have opposed on the ground that the girl is minor. That, serious offence is committed. That, victim is consistent in her statement to police as well as statement under Section 183 of Bharatiya Nagarik Suraksha Sanhita (BNSS). They also apprehend misuse of liberty in tampering evidence.

4. Heard. Perused the FIR dated 13.11.2024 at the instance of mother of victim, who has given her daughter's age as 14 years. Substance of the FIR is that she was residing at Ghanegaon. According to her, in January 2023, present applicant aged 19 years came to reside in their neighbourhood along with his family and he started visiting their house. She reported that he lured her daughter with love and even expressed his desire to marry her. Informant claims that, she told applicant that her daughter is still young and taking education, but still he repeatedly visited their house and even threatened to kidnap her daughter. Therefore, she claims that in December 2023, she sold her flat and shifted to Golewadi and thereafter to Padegaon. She further reported that on 12.11.2024, her brother forwarded on whatsapp, a photograph of her daughter with present applicant and in such photograph, her daughter was seen wearing *mangalsutra* and therefore, she claims to have questioned her daughter, who told her that on 10.11.2024, when nobody was in the house, applicant tied *mangalsutra* and had sexual intercourse with her. On above report, crime seems to have been registered.

5. Statement of victim is also recorded on 24.11.2024, wherein she also reported that applicant put a proposal to marry her and her mother refused and that on 10.11.2024, when her mother had been to work, after tying mangalsutra, he had forcible intercourse with her.

6. Statement of victim is already recorded under Section 183 of BNSS. Now investigation is said to be over. Nothing further is shown to be recovered or discovered at applicant's instance. Chargesheet is already filed in December 2024 itself. Much more time would be required for commencement of trial and its conclusion. Therefore, considering the young age of applicant and as no purpose would be served by his further detention, apprehension of misuse of liberty can be taken care of by imposing stringent conditions. Hence, I proceed to pass the following order:

ORDER

I. The application is allowed.

II. Applicant Rohit s/o Shivaji Mahale, be released on bail in connection with Crime No. 0579 of 2024 registered at Cantonment Chawni Police Station, District Chhatrapati Sambhajnagar City, on executing Personal Bond of Rs. 15,000/- with one surety in the like amount, on the following conditions :

[a] The applicant shall not tamper prosecution evidence.

[b] The applicant shall not enter the vicinity where informant and her daughter reside as well as the institution where informant's daughter undertakes education, and shall not make any attempt to establish contact with informant or her daughter in any manner.

[c] The applicant shall attend the concerned police station once in every week i.e. on every Monday between 11.00 a.m. to 02.00 p.m. till committal of the case and thereafter, shall regularly attend each and every effective date before the trial court.

[ABHAY S. WAGHWASE, J.]

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