



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

46 BAIL APPLICATION NO. 346 OF 2025

Shrikrishna Uttamrao Mulgir

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Thombre S. S.

APP for Respondents-State: Ms. P. V. Diggikar

Advocate for Respondent No.2 : Mr. Ingole Dhanraj S.

Advocate for Respondent No. 2 : Ms. Mayur S. Hange For R/2 (Appointed)

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CORAM : ARUN R. PEDNEKER, J.

Dated : June 16, 2025.

PER COURT :-

1. Heard the learned Counsel for the applicant, the learned APP for the respondent-State, the learned Counsel Mr. Ingole D. S. for respondent No.2, and the learned appointed Counsel Ms. Mayur S. Hange for respondent No.2.

2. The applicant is seeking bail in connection with FIR No.0272/2024, dated 21/09/2024, registered with Hadgaon Police Station, District Nanded, for the offences punishable under Sections 64, 65(1), 78, 74, and 4 of the *Bharatiya Nyaya Sanhita, 2023*, and under Sections 8 and 12 of the *Protection of Children from Sexual Offences Act, 2012* (POCSO Act).

3. The case of the prosecution is that, the applicant is 20 years old, whereas the informant was 13 years and 11 months old at the time of the alleged incident. It is alleged that the applicant had forcible sexual relations with the informant. The same is maintained by her in her statement recorded under Section 164 of the Cr.P.C. (now replaced with Section 183 of the *Bharatiya Nagarik Suraksha Sanhita*).

4. Today, an affidavit affirmed by the informant has been filed before this Court, the relevant portion of which, i.e., paragraphs 2 and 3, reads as under : -

“2] The deponent says and submits that, the applicant and deponent have well accompanied with each other and were having love affair, they were frequently talks with each other. The deponent is at the age of understanding and out of hear and anger she has filed a report against the applicant.

3] The deponent says and submits that, the deponent is having no objection if the bail is granted to the applicant and she does not want to further prosecute with the case.”

5. On 11/06/2025, the learned APP was directed to verify whether the affidavit had been duly affirmed by respondent No.2. The learned APP has verified the genuineness of the affidavit. However, the learned APP submits that considering the age of the victim and her earlier statement recorded under Section 164 of the Cr.P.C. (now Section 183 of the *Bharatiya Nagarik Suraksha Sanhita*), no case for grant of bail is made out. It is further submitted that the affidavit filed by the informant does not support the case made out in her previous statement.

6. At this stage, the informant is not maintaining the allegations made by her in the statement under Section 164 of the Cr.P.C. (now Section 183 of the *Bharatiya Nagarik Suraksha Sanhita*). It is also to be noted that except for the statement of the informant, there appears to be

no other material to connect the applicant with the alleged offence.

7. This Court has considered the judgment in *Criminal Application No. 718 of 2023*, decided on 05/01/2024, wherein in similar circumstances, this Court observed in paragraph 6 as under : -

“6. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. There is no dispute as to the fact that applicant is arrested on 30.08.2020 and there is no progress in the trial though charge-sheet is filed on 26.10.2020. As far as merit is concerned, admittedly victim is of 13 years of age and her consent is not relevant. However, the statements which are recorded by the Investigation Officer shows that victim has left her house at her own accord on the pretext of bringing the book from friend and not returned back at home. She also joined the company of the present applicant and also admitted her love relationship with the present applicant in her statement. From her statement it reveals that, she stayed along with the present applicant at various places and not made any grievance as she was taken by the present applicant by using some force. Thus it is apparent that, out of the love affair, she joined the company of the present applicant. The applicant is also of a tender age of 26 years and out of love affair they come together. It seems that, the alleged incident of sexual relationship is out of the attraction between the two young persons and it is not the case that applicant has subjected the victim for a sexual assault out of lust. Considering the fact that, though charge-sheet is filed long back in the year 2020 and there is no progress in the trial and trial will take its own time for final disposal. In view of that, further incarceration of the present applicant is not required and no purpose will be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions.....”

8. Considering the above facts and circumstances and following the ratio laid down in *Criminal Application (BA) No. 718 of 2023*, this Court is inclined to grant bail to the applicant.

9. In view of the above, the application is allowed in the following terms: -

a] The applicant shall be released on bail in connection with FIR No.0272/2024, dated 21/09/2024, registered with Hadgaon Police Station, District Nanded, for the offences punishable under Sections 64, 65(1), 78, 74, and 4 of the *Bharatiya Nyaya Sanhita, 2023*, and Sections 8 and 12 of the POCSO Act, 2012, on furnishing a PR bond of ₹25,000/- (Rupees twenty-five thousand only) with one or two sureties in the like amount, to the satisfaction of the Trial Court.

b] The applicant shall not, in any manner whatsoever, contact the informant during the pendency of the trial.

c] The applicant shall co-operate with the Trial Court and shall attend each and every date of hearing, unless specifically exempted by the Trial Court.

d] The applicant shall not tamper with the prosecution evidence nor shall he influence the informant, witnesses, or any other person concerned with the case.

e] Upon release on bail, the applicant shall furnish his current mobile number and residential address to the Trial Court and shall inform the Court of any change therein from time to time.

10. Needless to state, in the event of breach of any of the aforesaid

conditions, the bail granted to the applicant shall be liable to be cancelled. It is clarified that the observations made herein are limited to the disposal of the present bail application, and the Trial Court shall decide the matter on merits, uninfluenced by any observations made in this order.

11. The fees of the appointed Advocate are quantified at Rs.10,000/- (Rupees ten thousand only), to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

12. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.