



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

BAIL APPLICATION NO.737 OF 2025

Rahul Ambadas Waykhinde

VERSUS

The State of Maharashtra and Others

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Advocate for Applicant : Mr. Salunke Sudarshan J.

APP for Respondents No.1 and 2-State : Ms. A. S. Mantri

Advocate for Respondent No.3 : Ms. Smita Chole (Kendre) (Appointed)

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 14, 2025.

ORDER : -

1. Heard the learned Counsel for the applicant, the learned APP for the respondent-State, and the learned appointed Counsel for respondent No.3.
2. The applicant seeks bail in connection with FIR No. 0385/2024, registered with Majalgaon (City) Police Station, District Beed, for the offences punishable under Section 65(2) of the *Bharatiya Nyaya Sanhita*, 2023, and under Sections 4 and 6 of the *Protection of Children from Sexual Offences Act*, 2012.
3. As per the prosecution case, reflected in the FIR lodged by the victim's father, the victim, aged 5 years and 6 months, is a student of KG class, while the accused/applicant is a teacher at the Higher Secondary level in the same school. On 27/09/2024, at about 9:00 a.m., the father dropped the child at school. Upon returning from school, the child developed fever and was admitted to Vivan Hospital. During her illness, the informant noticed that his

daughter appeared frightened. On 02/10/2024, at about 10:00 p.m., upon inquiry, the child disclosed that on the day of the incident, when she was alone in the classroom during lunch break, a man wearing a white dress came in, removed her pant and committed penetrative sexual assault. Accordingly, the FIR was registered on 03/10/2024.

4. The applicant was arrested on 05/10/2024. After investigation charge sheet was filed on 25/11/2024. Bail application filed before the Trial Court was rejected, leading to the filing of the present bail application.

5. Learned Counsel for the applicant submits that the possibility of the alleged assault having taken place in the classroom is doubtful, however, even assuming that such an assault occurred, this could be a case of mistaken identity. The victim described the assailant as a person wearing "white shirt." On the date of the incident, CCTV footage shows the applicant was wearing an orange shirt. Further, the footage indicates that within three minutes of the alleged incident, the applicant was seen walking with another school employee at the opposite end of the school premises. Thus, the possibility of the applicant committing the assault is highly unlikely.

6. The learned Counsel further points out that the victim stated that Dalvi Madam came at the relevant time and took her away. However, Dalvi

Madam has not confirmed this part of the statement of the victim, and statements of another female teacher also contradict the victim's account. Counsel also contends that the medical evidence does not conclusively indicate penetrative sexual assault.

7. Per contra, the learned APP and the learned appointed Counsel for respondent No.3 submit that the incident occurred on a Saturday, and the victim, being a five and a half year old KG student, clearly identified the accused. CCTV footage shows the child happy and playful upon arriving at school. She is seen playful before the incident. She is seen going towards the class-I. After some time she is seen coming back to her class dejected. Her body language had completely changed from playful to painful/dejected. Within three minutes of the incident, the applicant is seen in the vicinity. They contend that distances within the school are small, and the timing does not rule out the applicant's involvement. The victim consistently identified the applicant in photographs, stating that he was the person who assaulted her. There is no enmity between the victim and the applicant, and no reason for a false accusation. It is stated that except of Saturdays the teachers wear white shirt as such the victim had identified the applicant with person with white shirt.

8. Regarding the statements of other teachers, it is noted that the person seen walking with the applicant in the CCTV footage has not given a

statement, reportedly due to unwillingness. Dalvi Madam stated that the school closed at 10:30 a.m. on 28/09/2024, and as no one came to collect the victim, she escorted her towards the road leading to her home. She stated that nothing happened to the victim in her presence, though she acknowledged it was not possible to supervise every child at all times. The Class Teacher similarly stated that nothing happened in her presence but could not comment on events outside her sight.

9. The victim's father and a social worker, Rekha Vinod Komatwar, confirmed that when shown several photographs, the victim repeatedly and unequivocally identified the applicant as the perpetrator, while shaking her head negatively for other photographs.

10. The applicant is seen in CCTV footage within the school premises during the relevant period. Although some teacher statements appear to contradict the victim's version, this is a matter for trial. Prima facie, the victim's statement, corroborated by consistent identification, cannot be discarded at this stage. The applicant, being a school teacher, holds a position of trust, and in the circumstances, bail is not warranted at this stage. However, if the trial is not concluded within one year, the applicant is at liberty to file a fresh bail application.

11. In view of the above, the application stands dismissed.

12. It is clarified that the observations made herein are confined to the present bail application. The Trial Court shall proceed with the trial uninfluenced by these observations.

13. The fees of the appointed Advocate for respondent No.3 be paid by the High Court Legal Services Sub-Committee, Aurangabad, as per rules.

(ARUN R. PEDNEKER, J.)

vj gawade/-.