



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

BAIL APPLICATION NO. 819 OF 2025

Nishchal s/o. Madhukar Bondar,
Age: 20 years, Occu. : Student,
R/o. Vrundawan Colony, Dharashiv,
Tq. & Dist. Dharashiv.

.. APPLICANT
[Orig.Accused]

VERSUS

01. The State of Maharashtra,
Through Police Station, Anand Nagar
Police Station, Dharashiv.

02. XYZ

.. RESPONDENT

...
Mr.V.D.Sapkal, Senior Advocate i/b.Mr.S.G.Karlekar,
Advocate for the applicant.
Ms.P.V.Diggikar, APP for the respondent-State.
Mr.S.R.Bagal, Advocate for respondent no.2.
...

CORAM : ARUN R. PEDNEKER, J.

DATE : 14.08.2025

ORDER:

1] Heard learned counsel for the applicant, the
learned APP for the respondent-State and the learned
counsel for the respondent no.2.

2] The applicant is seeking bail as he is arrested on 19.09.2024 in connection with Crime No. 407/2024, registered with Anandnagar Police Station, Dharashiv, for the offence punishable under Sections 64, 64 (2) (i), 65 (2) of the Bharatiya Nyaya Sanhita, 2023 along with Sections 4, 6, 8 and 12 of the POCSO Act.

3] The FIR is registered against the present applicant by the mother of the victim, stating therein that on 08.12.2024 her minor daughter, aged 3 years 6 months was playing as usual between 7.30 p.m. to 9.30 p.m. in the house of neighbourers, who had acquaintance with the family of the informant. However, when her daughter came back at 9.30 p.m., she complained about pain in her private part. The informant, on inspection, found blood stains on private part of her daughter. On enquiry with her daughter, she came to know that the applicant had committed penetrative sexual assault upon the child. As such, information is lodged by the mother of the victim with the

Police Station on 19.12.2024. Thereafter, the applicant is arrested on the same day i.e. on 19.12.2024 and continues to be in custody till date. Investigation is complete and charge sheet is filed. Thereafter, the applicant filed Bail Application before the Sessions Court and the same was rejected. As such, the present application is filed before this Court.

4] The learned counsel for the applicant has made two fold submissions, *firstly*, the medical evidence does not support the case of the prosecution at all and the alleged incident is stated to be in the house of the applicant where all family members of the applicant were also present in the house. *Secondly*, the husband of the informant had suspected that the applicant and informant were in illicit relations and on that count there was prior dispute between the applicant and husband of the informant. He further submitted that the husband of the informant is a police official in the same Police Station when the FIR is registered and that the informant's husband has utilized his position as

police official being aware how to deal the matters in respect of POCSO offences and has used his wife as informant and falsely implicated the present applicant in the alleged crime.

5] The learned counsel for the applicant has taken me through injury certificate and submitted that medical of the victim is conducted on 19.12.2024 and the history is noted as per narrated by the parents of survivor. The victim's mother examined the victim's private parts, when she saw some bleeding and white substance there. However the inner clothes of victim were cleaned. It is stated that the cloths of the victim are sent for C.A. report. It is stated in the examination report that urethral meatus and vestibule : redness and hymen intact. The Doctor has not opined anything on the aspect of possible sexual assault, however, final opinion is reserved till the forensic lab reports arrival.

6] The learned counsel for the applicant has taken me through statement of the father of the victim. He stated that he is working as Assistant Police Inspector, Incharge

Officer, Civil Rights Protection Vibhag, Dharashiv. It is stated that at about 2.30 a.m. the mother of the victim [informant] spoke on telephone with the mother of the applicant for long time about the incident.

7] The learned counsel for the applicant submitted that the applicant had at prior point of time taken the victim to the Hospital and the victim was hospitalized from 10.12.2024 to 12.12.2024. The applicant had helped the informant in all process towards hospitalization of the victim, however, the father of the victim had doubt about fidelity of the informant and suspected illicit relations of informant with the applicant. The applicant has produced documents at Page Nos.205 to 211 to the present application and the documents pertains to a complaint filed by the applicant against the husband of the informant prior to the alleged date of assault, wherein it is stated that the informant's husband has assaulted him on account of accompanying the informant and the victim to the Hospital.

8] The learned counsel for the applicant had made

submissions as recorded in the order dated 4th July, 2025, as regards the document at page Nos.205 to 211, as noted below :

1. *The learned counsel for the applicant has placed on record documents at page numbers 205, 207, 208, 209, 210, and 211 of the application. He submits that these documents were provided to him in response to an application made under the Right to Information Act. It is further submitted that these documents have been placed on record to demonstrate the applicant's innocence in the present matter.*

2. *On the other hand, the learned counsel appearing for the informant contends that these documents are antidated and have allegedly been obtained in collusion with the Sub-Divisional Police Officer. He argues that there is no reference in any of the earlier bail applications to the specific incident dated 16/12/2024, as evidenced by the above-noted documents, although the applicant and his family members were fully aware of the said incident at the relevant time. He further submits that he has filed an appropriate complaint regarding these antidated documents with the superior officer, alleging their suspicious nature. It is also submitted that the applicant is an influential person in society and may have procured these documents with the intent to use them to secure bail. Additionally, he contends that an effort is being made to deflect blame by portraying a relationship between the informant and the applicant, thereby attempting to imply that the father of the victim child has lodged a false complaint.*

3. *Considering that these documents have been produced for the first time in these proceedings and that a complaint has already been made to the superior officer regarding their authenticity, it would be appropriate to seek a response from the Superintendent of Police, Dharashiv. The Superintendent shall clarify whether these documents appear prima facie to be antidated or whether*

they were filed before the concerned authorities on the dates mentioned therein. A detailed response shall be submitted within one week from the date of this order.

4. The learned Additional Public Prosecutor is directed to communicate this order to the concerned Superintendent of Police, Dharashiv, forthwith.

5. List the matter for further hearing on 11/07/2025.

9] In response to the order dated 4th July, 2025, the Superintendent of Police has filed affidavit at para nos. 3 and 4, as under :

3. I say and submit that, in view of the order dated 04.07.2025 passed by this Hon'ble High Court thereby directing the Superintendent of Police Dharashiv to clarify the documents given by the accused / application before this Hon'ble High Court.

4. I say and submit that, the present deponent has conducted the detailed enquiry as per the directions of Superintendent of Police Dharashiv and recorded the statements of the concerned personnel and verified the office record. The conclusion drawn at the fag end of enquiry is that the present applicant / accused has forwarded the complaint against the husband of complainant and the entry to that effect was taken in inward register vide entry no. 5742/2024 on 17.12.2024 at the office of Sub Divisional Police Officer, Dharashiv. That, after perusal of record, it clearly revealed that the

complaint dated 17.12.2024 is not prima-facie antedated. The copy of report dated 15.07.2025 is annexed herewith and marked as Exhibit R-1.

10] In response to the aforesaid affidavit in reply of the Superintendent of Police, the learned counsel for the informant submitted that the report is not properly prepared by the Superintendent of Police. He further submitted that there is possibility that when the applicant was on interim bail, the complaint dated 17.12.2024 was prepared falsely, therefore, the report be discarded. The learned counsel for the respondent no.2 further submitted that the relations between the complainant family and accused family were very cordial and friendly. They used to celebrate even any small occasion in their families together like, purchasing vehicle, birthday and even they used to have tour together. Therefore, there is no possibility of making false allegations and false implication. He further submitted that the nature of offence committed by the applicant – accused is very serious and ghastly as detailed in the FIR. Thus, considering the seriousness of the offence,

the applicant – accused is not at all entitled to be released on bail.

11] The learned counsel for the respondent no.2 submitted that the age of the victim is only 3 years and 6 months. She is ravished by the applicant – accused to satisfy his lust. She has suffered injuries on her private part and spots of blood was also noticed on her vagina along with semen / white fluid. The trauma suffered by the victim and her family cannot even be told in words. He further submitted that the immediate conversation between the mother of applicant – accused and mother of victim available on record in the form of transcript corroborates the case of the prosecution. There is medical evidence available on record which sufficiently proves the ghastly act of the applicant – accused. The Medical Officer has specifically found injuries on private part of victim. There is statement of the victim and her mother recorded under Section 183 of BNSS. Further there is statement of brother of victim, explaining the term ‘Cockroach’, which refers to

penis. Thus, it is clear that the applicant – accused inserted his penis in the victim's private part. Considering the same, there is prima facie case and there is sufficient evidence to show that the applicant has ravished the victim of just 3 years 6 months old girl.

12] The learned counsel for the respondent no.2 further submitted that the samples of vaginal swab etc. are sent to FSL but report is not received yet. There is seizure of incriminating material from the spot i.e. pillow cover, bed-sheet etc. having stains.

13] The learned counsel for the respondent no.2 further submitted that the applicant is trying to create false documents for facilitating his release on bail. It is worth mentioning that the applicant has falsely contended that he had given complaint dated 17.12.2024 against the father of the victim for alleged incident dated 16.12.2024. No such alleged incident dated 16.12.2024 had happened / taken place. It is worth mentioning that the parents of the applicant were unaware about complaint dated 17.12.2024.

However, bare reading of the said false complaint dated 17.12.2024, it shows that the parents had knowledge of the same. It is also apparent from the earlier 3 Bail Applications where no contention regarding alleged incident dated 16.12.2024 is raised and that false and backdated complaint is managed to create suspicion about the present case. The father of the applicant upon receipt of the present Bail Application, immediately lodged complaint against the concerned Sub Divisional Officer for creating false record so as to help the accused person.

14] Considered the rival submissions. On perusal of the complaint, so also, the statement of the victim made before the Magistrate, at this stage, considering the gravity of offence alleged and absence of C.A. report, I would not grant bail in favour of the applicant although the applicant has equally possible defence. The defence of the applicant is that the case is foisted on the applicant by the husband of the informant on account of the suspected relations between the applicant and the informant.

15 (a) The possible defence can be seen from the enquiry conducted by the Superintendent of Police where he has recorded statements of three persons from the office of SDPO, who have dealt with the complaint lodged by the present applicant against the husband of the informant. The Superintendent of Police, Osmanabad has filed affidavit after inquiry that the complaint is not anti-dated. In the said complaint, it is mentioned that on 16.12.2024 the husband of the informant has assaulted the applicant for having assisted the informant at the time of hospitalization of the victim. Evidence is also produced on record indicating that the victim was suffering from urinal infection between 10.12.2024 to 12.12.2024 and various medical tests were also conducted on the victim. However, this aspect of victim suffering from infection just prior to the incident is not inquired into and no submissions are made in this regard by the prosecution.

15 (b) As a possible defence the medical evidence can also be seen in the context that the victim was suffering from urinal infection and was hospitalized just prior to the alleged date of incident.

15 (c) This Court have gone through the transcript of the long phone call made by the informant to the mother of the applicant wherein the conversation between the informant and mother of the applicant is recorded in the mobile of the informant. From the transcript of the recording, it appears that the informant tells the mother of the applicant that the victim has mentioned to them that the applicant has inserted 'cockroach' in her private parts to which the mother of the applicant points out that it is not possible as everybody in the family is present in the house. However, applicant's mother accepts the possibility that the applicant may have inserted finger in private part. The response of the mother of the applicant is in response of the information of assault given by the informant to the

mother of applicant. However, there is no admission by the mother of the applicant that the applicant has committed such an act as she has not seen it. The above long conversation late night is recorded in the mobile of the informant. Thereafter, on the next day, the complaint is made against the present applicant.

15 (d) All family members (i.e. mother, father and sister) of the applicant are in house where the alleged assault took place.

16] I have considered the above defence of the applicant and its a possible defence. However, it will have to be tested in trial. Considering the statement of the victim made before the Magistrate, so also, considering the nature of allegation in the complaint and the medical evidence on record, I deem it appropriate not to grant bail in favour of the applicant at this stage. Hence, the present application is dismissed. However, the trial Court is directed to conclude the trial within 6 months as the applicant is in jail from 19.09.2024. In the event, the trial does not conclude within

6 months and the applicant does not protract the trial, the applicant will be at liberty to apply for bail afresh after 6 months.

17] The Investigating Officer is also directed to forthwith collect the C.A. reports.

18] The Bail Application is dismissed with above observations and directions. The observations made on the merits of the case are limited to the present Bail Application and should not be taken into consideration by the trial Court in the course of trial.

[ARUN R. PEDNEKER]
JUDGE

DDC