

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

35 BAIL APPLICATION NO. 889 OF 2025

NISHANT MILIND GAIKWAD

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Paikrao Dhammadip Ankush

APP for Respondent/State : Mrs. V.N. Patil-Jadhav

Advocate for Respondent 2 : Mrs. Smita Chole (Kendre)

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CORAM : ARUN R. PEDNEKER, J.

DATE : 21/07/2025

P.C. :

1. Heard the learned counsel for the applicant, the learned APP for the respondent-State and Mrs. Smita Chole (Kendre), learned counsel for respondent No. 2.

2. The applicant is seeking bail as he is arrested in connection with Crime No. 986/2024 dated 30.10.2024 registered with M.I.D.C. Waluj Police Station, Chh. Sambhajinagar for the offence punishable under sections 64, 351(2) of B.N.S., 2023 and sections 4, 12 of Protection of Children From Sexual Offences Act.

3. Crime is registered on the basis of complaint filed by the prosecutrix/victim, who was 16 years 3 months old at the relevant time. The applicant was residing in front of her house and that he promised the prosecutrix to marry with her. However, the victim had informed the applicant that her age is below 18 years and she could not marry. Applicant used to take the victim in garden and used to snap photographs. When the victim started refusing to marry with applicant, the applicant started giving threat to make their photographs viral. On 30.9.2024 at 1.00 a.m. in the night the applicant knocked the door of victim and he had taken the victim on terrace and had

sexual intercourse with her by giving threat that he would make her photographs viral. In the morning when victim was not found in the house, her mother noticed presence of victim on the terrace of the applicant. Accordingly, crime was registered against the applicant for aforesaid offence.

4. The learned counsel for the applicant submits that applicant was arrested on 30.10.2024 and since then he is behind bars. Investigation is completed and chargesheet in the matter is also filed. The learned counsel submits that applicant is 21 years young boy. The learned counsel submits that victim on her own has accompanied the applicant on terrace and the offence is registered only because of the objection of the mother of the victim. The learned counsel submits that mobile phone is seized and sent for forensic examination, however, no objectionable photographs were found in the mobile. The learned counsel submits that victim was having age of understanding at the relevant time and the relations between the applicant and victim are consensual. The learned counsel therefore prays to release the applicant on regular bail.

5. Per contra, the learned APP as well as the learned counsel for respondent No. 2 submit that the applicant was residing in front house of victim, he has taken certain photographs of the victim and by giving threat of making the said photographs viral, he has taken the victim on terrace and has committed sexual intercourse. The learned APP as well as the learned counsel for respondent No. 2 submit that victim being minor at the relevant time, bail cannot be granted to the applicant.

5. Having considered the rival submissions and having perused the police papers, it appears that since 30.10.2024 the applicant, who is 21 years old, was behind bars. Investigation in the matter is completed. Chargesheet is also filed. From the police papers it appears that victim was having age of

understanding at the relevant time and she accompanied the applicant on her own on terrace. It appears that before the incident the victim and the applicant visited gardens where some photographs were taken. Prima facie, it appears that relations between the applicant and the victim are love relation and there is no forcible intercourse. Considering the age of the victim that at the relevant time she was having age of understanding, as there are no antecedents against the applicant and that the trial would take its own time to conclude, no purpose would be served by keeping the applicant behind bars till the conclusion of the trial. Therefore, I hold that regular bail can be granted to the applicant.

6. In view of the above, the application is allowed in the following terms :
- a] The applicant shall be released on bail in connection with Crime No. 986/2024 dated 30.10.2024 registered with M.I.D.C. Waluj Police Station, Chh. Sambhajinagar for the offence punishable under sections 64, 351(2) of B.N.S., 2023 and sections 4, 12 of Protection of Children From Sexual Offences Act, on furnishing PR bond of Rs.20,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
 - b] The applicant shall not visit the area of residence of victim i.e. Gandhinagar, Ranjangaon, Shenpunji during pendency of the trial.
 - c] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.
 - d] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court, for reasons to be recorded in writing.
 - e] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and

other persons concerned with the case.

f] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

7. Needless to say, in case of violation of any of the aforesaid conditions, the bail granted to the applicant shall be liable to be cancelled.

8. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

9. The application stands disposed of.

[ARUN R. PEDNEKER, J.]

SSC/