



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

930 BAIL APPLICATION NO. 1038 OF 2025

Kunal Dilip Rathod

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Bhosle Santosh C.

APP for Respondents-State: Mr. P. P. Dawalkar

Advocate for Respondent No.2 : Ms. Varsha M Kolpe (Appointed)

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CORAM : ARUN R. PEDNEKER, J.

Dated : August 19, 2025.

PER COURT :-

1. Heard learned Counsel for the applicant, the learned APP for the respondent-State, and the learned appointed Counsel for respondent No.2.
2. The applicant seeks bail. He was arrested in connection with FIR No.343/2024, dated 15/09/2024, registered with Bhokar Police Station, District Nanded, for offences punishable under Sections 70(2), 138, 351(2) (3), and 3(5) of the *Bharatiya Nyaya Sanhita, 2023*, and Sections 4, 8 and 12 of the *Protection of Children from Sexual Offences Act, 2012*.
3. The case of the prosecution, as emerging from the FIR, is that on 14/09/2024 at about 8:00 p.m., the victim, aged 15 years and 3 months, had gone to Palaj along with villagers and relatives from Sonari Tanda for *Dev Darshan*. After the *Darshan*, the victim remained outside the temple premises. Around 9:00 p.m., the co-accused approached her and asked her to

play “Aakashpalana”, but she refused. Thereafter, at about 9:15 p.m., the co-accused allegedly took her to a tempo owned by the present applicant, where both the co-accused and the applicant allegedly committed forcible sexual intercourse with her.

4. The incident was reported promptly, and FIR came to be lodged on 15/09/2024, within 24 hours. Investigation is completed and charge-sheet is filed. The learned Counsel for the applicant submits that the co-accused has already been granted bail, and further that the medical evidence does not support the prosecution case. He points out that in the FIR, the victim alleged sexual intercourse by both the accused, but in her statement recorded under Section 183 of *BNSS* before the Magistrate, she restricted the allegation of sexual assault to the applicant. He, therefore, submits that the present applicant deserves to be released on bail.

5. *Per contra*, the learned APP and the learned appointed Counsel for respondent No.2 oppose the application. They point out that this Court, while granting bail to the co-accused in BA/208/2025 by order dated 17/06/2025, relied upon the victim’s statement under Section 183 of the *BNSS*. In the said order, at paragraphs 4 and 5, this Court had observed as under : -

“4. Subsequently, on 23/09/2024, the victim’s statement under Section 183 of the *Bharatiya Nagarik Suraksha Sanhita*

was recorded before the Magistrate. In that statement, she attributed the sexual assault only to co-accused Kunal Rathod and did not implicate the present applicant. She also submitted a written statement to the Magistrate reiterating that only Kunal Rathod was involved in the incident and that the applicant had been named in the FIR merely because of his friendship with Kunal Rathod.

5. *Considering the victim's statement under Section 183 of the BNSS and the fact that the applicant has been in custody since 15/09/2024, this Court finds it appropriate to grant bail to the applicant, subject to conditions to ensure a fair trial."*

6. Having heard both sides, *prima facie*, in the present case, the FIR was lodged within 24 hours of the incident. The medical evidence on record shows that the preliminary opinion is given by the Doctor indicates that the findings are consistent with sexual intercourse. However, the final opinion has been kept reserved pending receipt of the Forensic Science Laboratory Report, which is yet been received.

7. As regards the co-accused, it is seen from the victim's statement recorded under Section 183 of the *BNSS* that she specifically attributed the act of sexual assault to the present applicant and clarified that the co-accused was named in the FIR merely because he is the friend of the applicant.

8. Considering this aspect, along with the medical evidence and the

age of the victim, who was 15 years and 3 months at the time of the incident, this Court is of the view that the offence alleged is serious in nature. At this stage, no case for grant of bail is made out. Accordingly, the application stands dismissed.

9. Fees of the learned appointed Advocate be paid by the High Court Legal Services Sub-Committee, Aurangabad, as per rules.

(ARUN R. PEDNEKER, J.)

vj gawade/-.