



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

128 BAIL APPLICATION NO. 1345 OF 2025

Akshay Laxman Bachate

VERSUS

The State of Maharashtra And Another

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Advocate for Applicant : Mr. Abhinay D. Khot

APP for Respondent No.1: Mr. S.B. Narwade

Advocate for respondent No.2: Miss. Mayur S. Hange

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CORAM : SANJAY A. DESHMUKH, J.
DATED : 15th SEPTEMBER, 2025.

PER COURT :-

1. This is an application for granting bail under section 439 of the Code of Criminal Procedure, 1973 in connection with crime No. 792 of 2024 registered with Gangakhed police station, District Parbhani, for the offences punishable under Sections 137(2), 96, 64(1), 65(1), 87 of Bhartiya Nyay Sanhita, 2023 and under Sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012.

2. The informant, who is father of the prosecutrix, averred in the report that his 17 years old daughter had left the house on 26.12.2024 in the evening and thereafter, she was found with the applicant at Pune. The applicant was accordingly arrested on 11.04.2025 i.e. after four months. Therefore, the report is lodged

against the applicant.

3. Learned advocate for the applicant submitted that it is a case of love affair. Entire charge sheet does not disclose that the applicant has forced the prosecutrix for sexual relationship. He submitted that considering the law laid down in the following authorities, the applicant deserves to be released on bail.

i) Criminal application (BA) No.718 of 2023, (Nagpur Bench) decided on 05.01.2025 (Nitin Damodar Dhaberao vs. State of Maharashtra and another).

ii) Criminal Bail application No. 3899 of 2024 (Principal Seat at Bombay) decided on 17.2.2025 (Vijay Chand Dubey vs. The State of Maharashtra and another).

lii) Bail application No. 877 of 2025 (Aurangabad Bench) decided on 14.08.2025 (Shubham Dilip Awasarmal vs. The State of Maharashtra and another)

4. Learned A.P.P. for the respondent-State and learned advocate appointed to represent the cause of respondent No.2-victim have strongly opposed the application and submitted that the applicant is booked for serious crime of commission of rape on a child of 17 years old. They both are residents of the same village and if the applicant is released on bail, he may pressurize the prosecutrix and

her family members and tamper with the evidence. Considering the serious nature of the offence, it is lastly prayed to reject the application.

5. It would be relevant to refer the authorities cited by the learned advocate for the applicant. In the case of ***Nitin Damodar Dhaberao vs. State of Maharashtra and another, (supra)***, in para 6, this Court observed as under:-

“6. 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.

In the case of ***Vijay Chand Dubey vs. The State of Maharashtra and another (supra)*** in para Nos. 9 and 10, this Court observed as under:-

“9. *Insofar as the present case is concerned, it is seen that victim has left her parents' house without informing the parents and has stayed with Applicant for 3 days and 3 nights as also she has confessed that she was in love with the Applicant and travelled alongwith him to different places and had a consensual encounter.*

10. *It is settled law that a Court while deciding a Bail Application has to keep in mind the principal rule of bail which is to ascertain whether the Accused is likely to appear before the Court for trial. There are other broad parameters also like gravity of offence, likelihood of Accused repeating the offence while on bail, whether he would influence the witnesses and tamper with the evidence, his antecedents are required to be considered in such cases."*

In the case of **Shubham Dilip Awasarmal vs. The State of Maharashtra and another (supra)** in para Nos. 12 and 13, this Court observed as under:-

*"12. The Hon'ble Supreme Court in the case of **Sanjay Chandra** supra has primarily held that bail should be the rule and during pendency of the trial the liberty should not be curtailed unless there are circumstances suggestive of applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating the witnesses. Considering the gravity of the offence involved is likely to induce the accused to avoid the course of justice, so also heinousness of the crime. While dealing with the bail, the court should exercise judicial discretion based on well settled principles of law and the concern of the court should be to secure the presence of the applicant, who is seeking bail. Thus, the court may take into consideration antecedents of the applicant to find whether he has bad record particularly the record which suggests that he is likely to commit serious offence while on bail.*

13. Having considering the law on the subject of grant of bail as above, although the age of consent of minor is immaterial

for the offence under POSCO Act, the grant of bail would be at the discretion of the Court to be exercised on well settled principles as noted above. Exercise of the discretionary power of the Court is not an uncontrolled power. The Court may exercise the power more liberally when investigation in the matter is complete and that the possibility of the applicant from fleeing from justice is remote, when he has no antecedents and he may not possibly interfere with the justice.”

6. Perused the charge sheet, particularly the report and the statements of witnesses. The applicant and the prosecutrix resided at Pune for two days. The prosecutrix is 17 years of old. It is the case of love affair between the applicant and the prosecutrix. The applicant has roots in the society. He will not flee away from trial. The trial will take a long period. Considering the law laid down in the aforesaid authorities, the application deserves to be allowed on certain conditions:- Hence, the following order.

O R D E R

- I. Application is allowed.
- II. The applicant in connection with crime No. 792 of 2024 registered with Gangakhed police station, District Parbhani, for the offences punishable under Sections 137(2), 96, 64(1), 65(1), 87 of Bhartiya Nyay Sanhita, 2023 and under Sections 4, 8, 12 and 17 of the Protection of Children from Sexual

Offences Act, 2012, be released on bail on furnishing personal bond of Rs.50,000/- with one surety of the like amount on following conditions:-

- a) The applicant shall not tamper with the prosecution evidence and shall not pressurize the witnesses, in any manner.
- b) The applicant shall not enter in the village Wadgaon Station, Tq. Sonpeth, district Parbhani, till conclusion of trial.

7. Since Miss. Hange, learned advocate is appointed to prosecute the cause of the respondent No.2, her fees be paid as per the schedule of fees maintained by the High Court Legal Services, Sub-Committee, Aurangabad.

(SANJAY A. DESHMUKH, J.)

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