



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

920 BAIL APPLICATION NO. 1353 OF 2025

Umar Khan Iliyas Khan.

... Applicant

Versus

The State of Maharashtra and others.

... Respondents

...

Advocate for Applicant : Mr. Sudarshan J. Salunke.

APP for Respondent Nos.1 & 2 : Mr. R. S. Wani.

Advocate for Respondent No.3 : Mr. Mohsin Khan.

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CORAM : **SANJAY A. DESHMUKH, J.**

DATE : 18th September, 2025.

Per Court:

1 Heard.

2 This is an application for grant of regular bail in connection with Crime No.35 of 2025, registered with Cantonment (Chawani) Police Station, District Chhatrapati Sambhajinagar (City), for the offences punishable under Sections 67 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short "the BNS") and under Sections 3, 4, 5 and 6 of the POCSO Act, 2012.

3 The informant averred in the report that she married with the applicant on 14th March, 2020 as per Muslim rites and customs. After the marriage, she resided with the applicant and others. A son was born to her on 2nd February 2022, who is now about three years of age. On 7th October, 2023, divorce (*Khula*) took place between the applicant and the informant in the presence of witnesses and at that time her son was with her. On 28th January, 2024, the applicant came to her house, beaten her and forcibly took away her son. She made a complaint about that incident to Begampura Police Station, Aurangabad. Thereafter, on 22nd July, 2024 she filed Petition No.D-13 of 2024, before the Family Court for custody of her son.

4 The informant further averred that on 7th November, 2024 at about 12:00 noon, she went to the Family Court. The applicant also came there. But he did not bring the child to the Court. There, the applicant told her that he would arrange a meeting with the child and asked her to come with him. The informant believed him and hoping that she will meet her son, went to Nagarnaka at about 06:15 am. Her husband was standing there with his car. The informant sat in the car. The applicant drove the vehicle towards Padegaon and brought her to the plotting area at Block No.179, Mitmita, Aurangabad between approximately 06:30 am and 07:00 am. When she asked the applicant about meeting her son, the applicant demanded sexual favour. The

informant again questioned him as to where is her child. At that time, the applicant committed forcible sexual intercourse with her, assuring that he will arrange a meeting with her son. But the applicant did not allow her to meet the child.

5 The informant further averred that on 25th November, 2024, she again attended the Family Court. The applicant also attended on that date but again he did not bring the child. Thereafter, the applicant told her that he would arrange a meeting with the child and asked her to come to Baba Petrol Pump. She went there. The applicant also came there in his car. The informant sat in the car and he took her to Padegaon again to Block No.179, Mitmita, Aurangabad. The applicant again demanded sexual favour. She refused and stated that she came there only to meet her child. The applicant then forcibly committed sexual intercourse with her.

6 The informant further averred that on 30th November, 2024, she again attended the Family Court. The applicant was present there but again had not brought the child. The applicant again assured her that he would definitely arrange a meeting with the child and asked her to come with him. She believed him and went to Nagarnaka. Thereafter, the applicant came there in his car alongwith her son. The informant sat in the car. They both went to said Block No.179, Mitmita,

Aurangabad at about 07:00 pm. There, the applicant again demanded sexual favour. She refused and told that she came only to meet her son. At that time, the applicant said that if she did not allow him to have sexual intercourse with her, he would do obscene acts with her son. Thereafter, the applicant placed his genital organ into the mouth of her son and threatened that if she would not allow him to have sexual acts with her, he would commit such acts with her child. She became frightened and tried to come out of the vehicle. Then the applicant threatened that if she left, he would kill her son and would repeat such acts with her son every day at home and compelled her to get back in the vehicle. The applicant then took her to Nagarnaka, left there, and took the child with him. Thereafter, the informant lodged the report on 29th January, 2025.

7 The learned counsel for applicant submitted that the applicant is falsely implicated in the crime. He submitted that there is delay of two months in lodging the report. There is history of sexual intercourse between the applicant and the informant to take revenge and to implicate him falsely. He submitted that the applicant has roots in the society and he will not flee away from the trial. Trial will take a long period. Charge-sheet has been filed and the custody of the applicant is not necessary. It is lastly prayed to allow the application.

8 The learned APP for respondent Nos.1 and 2 and the learned counsel for respondent No.3 strongly opposed the application and submitted that the applicant is involved in the serious crime. The applicant is prosecuted under the POCSO Act for the sexual harassment of a three year old child. The applicant has pressurized the informant and in her presence committed the heinous act. It is submitted that the applicant is not following the directions of the Family Court. He remained absent before that Court. He has taken advantage of the child and committed a heinous act against the informant and her son. Considering the nature of crime and as there is possibility of commission of same nature of crime, it is lastly prayed to reject the application.

9 Perused the charge-sheet, particularly, the report and the statements of witnesses. No doubt there is delay of two months for lodging the report, however, various litigations between the parties are going on. Though the incident took place two months prior to the lodging of the report, there are allegations of heinous overt act on the part of the applicant as stated in the report. In such circumstances, when the applicant is having custody of the child and if he is released on bail, certainly there is possibility that he will commit similar offence and sexually harassed the child as contemplated under the POCSO Act.

10 Considering all the above reasons, no exception is made out to grant bail to the applicant on the principle that bail is rule and jail is exception. Accordingly, the application deserves to be rejected. The bail application is rejected.

[SANJAY A. DESHMUKH, J.]

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