



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

BAIL APPLICATION NO. 1411 OF 2025

Eknath Subhash Rathod.

... Applicant

Versus

The State of Maharashtra and another.

... Respondents

...
Mr. Sunil B. Surse, Advocate for Applicant.

Mr. P. P. Dawalkar, APP for Respondent / State.

Mr. Jitendra S. Jain, Advocate for Respondent No.2.

...

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

RESERVED ON : 15th September, 2025.

PRONOUNCED ON : 30th September, 2025.

ORDER:

1 Heard both the sides.

2 This application is filed for granting regular bail in connection with Crime No.58 of 2025, registered with Kannad City Police Station, District Chhatrapati Sambhajinagar (Rural), for the offences punishable under Sections 137(2), 64(2)(m), 65(1) and 87 of the Bharatiya Nyaya Sanhita, 2023 (for short, "the BNS"), under Sections 4, 8 and 12 of the Protection of Children from Sexual

Offences Act, 2012 (for short, “the POCSO Act”).

3 The informant averred in the report that her elder married daughter was suffering from an illness. Therefore, her younger daughter i.e. victim aged 13 years and 6 months was sent to help of her elder daughter. On 3rd March, 2025, her elder daughter called the informant and asked her as to whether the applicant, with his minor daughter and the victim girl came there ? The informant said that they did not come. Thereafter, the informant made inquiries and searched for the victim, but she was not traced out. Therefore, she lodged the report against the applicant.

4 The statement of the victim girl is recorded in which she has stated that the applicant requested her to marry with him. She refused that proposal. At that time, the applicant told her that if she refuses to marry with him, he would commit suicide by hanging himself. Thereafter, the applicant took her to Ranjangaon, Aurangabad, where he took a room on rent and repeatedly committed sexual intercourse with her.

5 The learned counsel for the applicant submitted that the applicant is falsely implicated in the crime. The victim is having the age of understanding and there is no force on the part of the applicant.

Now, the matter has been settled and on that ground the application deserves to be allowed. Further, the grounds of arrest are not communicated to the applicant and therefore, he is entitled for bail. The informant and the victim child stated that the applicant was harassing his wife (i.e. the elder daughter of the informant) and therefore, the report was lodged against him. On this ground also, the applicant is entitled for bail. The applicant has roots in the society and he will not flee away from the trial. Trial will take long period. It is lastly prayed to allow the application.

6 The learned APP for the State strongly opposed the application and submitted that the applicant is booked for serious crime of aggravated sexual assault. The applicant has taken disadvantage of the tender age of the victim child and took her out with him. If the applicant is released on bail, he will pressurize the prosecution witnesses and tamper the evidence. It is lastly prayed to reject the application.

7 Perused the charge-sheet, particularly, the report and the statements of the witnesses. From the record itself, particularly, the medical examination report, in which the victim child has stated that the applicant had committed sexual intercourse with her for many times. The applicant enticed away her. He took a room on rent and

committed aggravated sexual assault on her frequently there. He is the close relative of the victim child and therefore, the witnesses are now stating, particularly, the victim is stating that nothing had happened with her and the report was lodged because the wife of the applicant was harassed by the applicant. The applicant is booked for serious and anti-social crime. This shows that the applicant has pressurized the informant and the victim child and own-over them. If the applicant is released on bail, he will certainly pressurize the prosecution witnesses and tamper with the evidence. The very object of the Protection of Children from Sexual Offences Act will be frustrated if the applicant is released on bail. Further, if the applicant is released on bail, he may pressurize the prosecution witnesses and tamper with the evidence.

8 The applicant prayed for bail on the ground that the grounds of arrest were not communicated to him. However, the applicant has not raised the said ground before the remand Court when he was produced for the first time for remand. He raised that ground before this Court. As per the law laid down by the Honourable Supreme Court in the case of ***The State of Karnataka Vs. Sri Darshan, 2025 INSC 979***, in which the Honourable Supreme Court held as follows:-

“The approach adopted here is inconsistent with the settled principle that procedural lapses in furnishing grounds of arrest, absent prejudice, do not ipso facto render custody illegal or entitle the accused to bail.”

9 The applicant has to show that prejudice is caused to him. Therefore, the applicant cannot take the said ground now. Therefore, on this ground the applicant is not entitled for bail.

10 Considering all these reasons, the application deserves to be rejected. The bail application is rejected.

[SANJAY A. DESHMUKH, J.]

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