



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1668 OF 2025

SANDIP SOPAN MAPARI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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- Mr. S. B. Surse, Advocate for Applicant
- Ms. D. S. Jape, APP for Respondent No. 1 - State
- Ms. Varsha V. Sundale, Advocate for Respondent No. 2

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CORAM : MEHROZ K. PATHAN, J.

DATED : 03.11.2025

PER COURT :

1. The applicant has filed the present application seeking regular bail in Crime No. 317 of 2024, registered at Police Station Shivoor u/Sections 137(2), 64(1), 64(2)(M), 65(1) of BNS and Section 4, 6, 8, 12 of POCSO Act. The mother of the victim has lodged a report alleging that on 30.08.2024 at about 05:00 p.m. her son informed her that the minor daughter was not found in the home and therefore, she lodged the missing report. The victim was searched and after about 15 days, the victim was found and the statement was recorded wherein, she has narrated that the applicant has forcibly made her sit with him on a motorcycle and was taken to village *Madhi* and stayed at *Bhakti Niwas*. The victim along with the

applicant had come back to the village *Shivoor* and that is how the applicant came to be arrested. The counsel for the applicant submits that the applicant is arrested on the date the applicant came back with the victim at village *Shivoor*. The investigation is already completed and that there is no scope for tampering with the prosecution evidence and as such the applicant may be released on bail.

2. As against this, the learned APP strongly opposes the present bail application on the ground that the victim was aged 14 years, 7 months and 5 days and that the applicant is a married man having children. It is also stated that the victim aged 14 years was the friend of the daughter of the applicant and that the applicant is aged 33 years. The victim has also recorded her statement under Section 164 Cr.P.C. and as such, there is every likelihood that the prosecution may be able to bring home the guilt of the applicant and the applicant is charged with the serious offences of committing rape on a minor victim girl. The victim being minor, her consent is immaterial. The learned APP therefore, prays for rejecting the bail application.

3. Learned appointed counsel appearing for the respondent No. 2 – victim, adopts the arguments of the learned APP and further states that the victim being a minor girl, there is every likelihood that the

applicant may pressurize the victim and thereby cause prejudice to the trial. The learned counsel therefore, prays for rejection of the bail.

4. I have considered the entire charge-sheet. The investigation officer has collected the birth certificate of the victim, which shows her date of birth as 23.03.2010. As such, the age of the victim is not disputed that she was 14 years, 7 months at the time of the date of the alleged incident. It is interesting to note that in the medical examination of the victim, nowhere corroborates the allegations of rape. The entire medical examination report is perused minutely. There are no signs of any injury, either of old or fresh hymenal tear. The final opinion column is also left blank.

5. The statement of the victim under Sections 164 of the Cr.P.C. is at variance with the statement under Section 161 of the Cr.P.C. The statement under Section 164 of the Cr.P.C., the victim only states about attempts on behalf of the applicant to commit forcible sexual intercourse upon the victim. Whereas in 161 statement, the applicant alleges about the forcible sexual intercourse. Be that as it may, these are *prima facie* observations which makes out an arguable case. However, the evidence is to be considered at the time of trial.

6. In my opinion, therefore, the applicant who is behind the bars

since 23.09.2024, may not be required to undergo further incarceration. The apprehensions of the prosecution as well as the learned appointed counsel for the victim can very well be taken care of by imposing certain conditions while granting bail.

7. Hence, the following order:-

ORDER

- A) The Bail Application is allowed.
- B) The applicant shall be released on bail in connection with in connection with Crime No. 317 of 2024, registered at Police Station *Shivoor* U/Sections 137(2), 64(1), 64(2)(M), 65(1) of BNS and Section 4, 6, 8, 12 of POCSO Act, on furnishing PR bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the trial Court.
- C) The applicant shall not enter village *Shivoor*, till the final disposal of the trial.
- D) The applicant shall attend each and every date of the trial, except required under exigency that the exemption may be sought before the learned trial Court.
- E) The applicant shall not tamper with the prosecution evidence. A single report of the applicant pressurizing the

witnesses or prosecutrix may entitle the prosecution to seek cancellation of the bail granted to the present applicant.

F) The bail application is allowed in aforesaid terms.

8. Fees of the appointed counsel Ms. Varsha V. Sundale, Advocate for Respondent No. 2 to be quantified as per rules of the legal aid.

(MEHROZ K. PATHAN, J.)