



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1805 OF 2025

Akash Raju Ughade

VERSUS

The State of Maharashtra and another

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Advocate for Applicant : Mr. K.N. Shermale

APP for Respondent No.1: Mr. N.B. Patil

Advocate for respondent No.2: Ms. Varsha M. Kolpe

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CORAM : SANJAY A. DESHMUKH, J.

DATED : 16th OCTOBER, 2025.

ORDER :-

1. This is an application for grant of regular bail under section 483 Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023 in connection with crime No. 392 of 2023 registered with Akole police station, District Ahmednagar for the offences punishable under Sections 376(2)(n), 376(3), 366(A), 365 and 506 of I.P.C. and under Section 4, 5(i)(2), 6 and 10 of the Protection of Children from Sexual Offences Act, 2012.

2. Learned advocate for the applicant pointed out the report, in which it is averred that her daughter is a student of 9th standard. Her birth date is 18.9.2008. The applicant was trying to elope her on the assurance of performing the marriage with her. Six months prior to

lodging of the report, the applicant had taken her daughter. Since, the applicant is the cousin of informant, she could not lodge the report against him. She was not knowing anything regarding the said incident. When she came to know that the applicant is residing in a village Veergaon in the farm house of one Balu Naikwadi, she alongwith her relatives went there. She saw that her daughter was there. At that time, she told that the applicant had assured her to marry with her and took her with him and frequently committed aggravated sexual assault on her and she became pregnant. Then the report was lodged.

3. Learned advocate for the applicant submitted that it is a consensual sex out of love and affairs. The applicant has not forced the daughter of the informant. He has roots in the society. He will not flee away from the trial. The trial will take a long period. It is lastly prayed to allow the application.

4. Learned advocate for the applicant in support of his submissions placed reliance on the following authorities:-

i) Criminal Appeal No. ____ of 2024 @ SLP (CRL) No. 11020 of 2024) decided on 04.10.2024 (Deshraj @ Musa vs. State of Rajasthan and Anr. (Hon'ble Supreme Court), in which it is

held that the victim was 16 years old and bail was granted.

- ii) Bail application No. 877 of 2025, decided by this Court on 14.08.2025 (Shubham Dilip Awasarmal vs. State of Maharashtra and another), in which in para 13 it is held that:-

“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.”

- lii) Criminal bail application No. 3899 of 2024 decided by this Court (Principal Seat) on 17.02.2025 (Vijay Chand Dubey vs. The State of Maharashtra and another), in which in para 12 it is held that:-

“12. In the present case before me it is crucial to consider whether the act between the parties is violent or otherwise and in the present case it is not. Another mitigating factor is whether there are any criminal antecedents of the Applicant which in the present case are none. The aforesaid mitigating facts and Applicant's incarceration for more than 5 years 2 months and 23 days therefore

persuade me to consider Applicant's case."

5. Learned A.P.P. for the respondent-State and learned advocate for respondent No.2 strongly opposed the application and submitted that the applicant is maternal uncle of the victim child. The applicant has committed penetrative sexual assault against the child taking disadvantage of her childhood. The child was conceived. The applicant is a close relative of the victim child and if he is released on bail, he will certainly pressurize the prosecution witnesses and tamper with the evidence. Considering the role of the applicant, it is lastly prayed to reject the application.

6. Perused the charge sheet, particularly the report and the statements of witnesses as well as the report of medical examination. The applicant is maternal uncle of the victim child. Though the applicant has roots in the society, certainly he will pressurize the prosecution witnesses and particularly the victim child. In such circumstances, the applicant is certainly not entitled to bail on the principle that bail is the rule and jail is the exception, considering the different set of facts, particularly that he is a relative of the victim child, being her maternal uncle.

7. The facts of each case are decisive. The applicant is 30 years old. The victim was 14 years and 8 months old. This is decisive

factor that applicant has taken disadvantage of her age and fled away with her. Her consent is no consent in the eyes of law. Therefore, the case laws cited (supra) on behalf of the applicant are not used to him.

8. Considering the aforesaid reasons, the case laws cited (supra) are not helpful to the applicant's case. Therefore, they are not relied upon. The application deserves to be rejected. Hence, the following order.

O R D E R

Application is rejected.

9. Since Mr. Varsha M. Kolpe, 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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