



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**BAIL APPLICATION NO. 2155 OF 2025**

UMAR KHAN ILIYAS KHAN  
VERSUS  
THE STATE OF MAHARASHTRA AND OTHERS

...  
Advocate for applicant : Mr. V.D. Sapkal i/by Mr. S.J. Salunke  
with Mr. Yash A. Jadhav and Atharva D. Khedkar  
APP for the respondent – State : Mr. S.G. Sangle  
Advocate for respondent no. 2 : Mr. Mohsin Latif Khan Pathan  
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**CORAM : SACHIN S. DESHMUKH, J.**

**DATE : 15 DECEMBER 2025**

**PER COURT :**

The applicant has approached this Court seeking regular bail in connection with FIR bearing Crime No. 35 of 2025 dated 29.01.2025 registered with Cantonment Chhavani Police Station, District – Chhatrapati Sambhajnagar for the offences punishable under section 67, 351(2) of the Bharatiya Nyaya Sanhita, 2023, under section 3, 4, 5 and 6 of the Protection of Children From Sexual Offences Act, 2012.

2. This Court, by its order dated 18.09.2025 upon considering the material on record, including the chargesheet and statement of child, has rejected the earlier Bail Application No. 1353 of 2025 presented by the applicant. This is a successive bail application.

3. The case of the prosecution is that the informant was married to the applicant on 14 March 2020 as per personal rites and customs. Thereafter, on 7 October 2023, a divorce (Khula) took place between the applicant and the informant. On 22 July 2024, she presented Petition No. D-13 of 2024 before the Family Court, seeking custody of her son.

4. The prosecution further alleges under the pretext of meeting with the child, applicant forcibly committed sexual intercourse with her. The custody of son was then with the applicant. It is lastly submitted that, after the aforestated incidents, *vis-a-vis* the heinous act with minor child of applicant, the informant lodged the report on 29 January 2025. Based on same, the Police registered FIR leading to arrest of the applicant.

5. The solitary ground on which the present application, after rejection of earlier application, is presented, is change in custody of the victim. Pursuant to the order of this Court in Civil Application No. 10653 of 2025 in Family Court Appeal No. 8 of 2025, dated 30.09.2025, wherein the custody of the minor child has been handed over in favour of the mother, who is complainant in the present case. As such, the ground of rejection is no longer available and request for bail of the applicant warrants the consideration.

6. Learned Senior Counsel for the applicant submits that the change in custody of minor child is a factual circumstance and constitutes a material change, which would entail the applicant to approach this Court. In this regard, reliance is placed on the order of this Court in the case of ***Kamlesh Dhirajlal Gandhi Vs. State of Maharashtra and another; 2008(6) AIR Bom R 221.***

7. There is no debate that the successive bail application can be preferred, essentially and predominantly on new factual situation or change in law.

8. Having heard learned for the applicant and the learned APP, and perusing material on record, including chargesheet, the applicant is facing a prosecution in a heinous offence which contemplates severe punishment viz. life imprisonment or even death penalty in most heinous crimes. The Hon'ble Apex Court in ***Kalyan Chandra Sarkar and others Vs. Rajesh Ranjan and others; (2004) 7 SCC 528*** in paragraph no. 12 thereof, has laid down guidelines with regard to successive bail applications, which reads as under:-

“12. In regard to cases where earlier bail applications have been rejected, there is a further onus on the court to consider the subsequent application for grant of bail by noticing the grounds on which earlier bail applications have been rejected and after such consideration, if the court is of the opinion that bail has to be granted then said court will have to give specific reasons why in spite of such earlier rejection the subsequent application for bail should be granted.”

Thus, the Apex Court has laid down onus on Court while deciding successive applications, Court must consider the grounds on which previous application was rejected and if Court considers bail be granted, it should record reason.

9. Considering *prima facie* overwhelming material available on record, including the statement of child witness, who is victim of heinous act at the instance of the applicant, case is made out against the applicant.

10. The fact that the applicant is alleged to have indulged in heinous act involving his own minor son, I am of the considered view that the afore-mentioned facts would not *ipso facto* entitle the applicant to assert that change in custody of child would be a material change. Therefore, same cannot be regarded as ground to entertain successive application for grant of bail.

11. In such circumstances, referred to above, and having regard to the gravity of offence, I do not find any merit in this application and the same is, accordingly **dismissed**.

[ SACHIN S. DESHMUKH ]  
JUDGE

arp/