



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 484 OF 2025

RAM RAKHAMAJI GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicant : Mr. Gaikwad Amol Ratan
APP for Respondents-State : Mr. S. M. Ganachari
Advocate for Respondent No. 2 : Ms. Anita Veer (Naik) (Appointed)

CORAM : SACHIN S. DESHMUKH, J.

Date : 4th December, 2025

ORDER :-

1. The applicant has approached this Court seeking regular bail in connection with FIR dated 05.11.2024 bearing Crime No. 709 of 2024 registered with Gangakhed Police Station, Dist. Parbhani for the offences punishable under Sections 376, 376(2) (n), 376(a), 376(ab), 354(a), 376(b), 109, 114 and 506 read with 34 of the Indian Penal Code and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012.

2. The prosecution's case is that the mother of victim lodged the FIR against the two accused including present applicant alleging that Since August 2023, the applicant has physically assaulted the victim with the help of accused No. 2 i.e. grand-

mother of victim.

3. In the aforesaid backdrop, the learned counsel for applicant submits that applicant was arrested on 05.11.2024 and since 09.11.2024, he is in judicial custody. The investigation is completed and the charge-sheet is also filed. In the FIR, it is alleged that the incident occurred from August-2023 to June-2024. No any date is specifically mentioned in the FIR.

4. The learned counsel for applicant further submits that in the Court of CJSD, Gangakhed, accused No.2 - Muktabai has filed civil suit against Chima. Applicant is representing accused No.2 in the said suit as an advocate and due to property dispute, the applicant has falsely implicated in this case. Moreover, the complainant and all the witnesses are residing at Pune. Hence, there is no question of tampering with the evidence. As such, further incarceration of the applicant is not warranted. Hence, prayed to allow the application.

5. The learned APP for State and the learned counsel for respondent No. 2 have vehemently opposed the application submitting that the offence is serious in nature. The applicant had

subjected the victim, who is minor, to the forcible sexual assault. There is substantial evidence on record indicating complicity of the present applicant in the offence. If applicant is enlarged on bail, there is every possibility of tampering the prosecution evidence. As such, prayed to reject the application.

6. Upon considering the submission of both the sides and perusing the material on record, including the charge-sheet, it is evident that the alleged incident is reported on 05.11.2024. The victim is merely 10 years and 11 months old. The allegations against the present applicant about committing the forcible sexual assault under threat. Perusal of record prima facie indicates that the victim is minor. On the other hand, the applicant is of a considerable age i.e. 41 years.

7. Thus, it prima facie appears that applicant is guilty of the offence of rape as the victim is a minor. Particularly when, the victim-girl as well as her younger sister in their statement under section 183 BNSS have narrated the incident in detail. Furthermore, the medical MLC Report clearly opines that the possibility of sexual and physical assault cannot be ruled out. Thus, there is prima facie sufficient evidence to indicate complicity of the

applicant in the crime.

8. The Hon'ble Apex Court in the case of **Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670)** has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear prima facie case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offense.

9. Equally, the Hon'ble Apex Court in case of **State of UP through CBI Vs. Amaramani Tripathi [(2005)8 SCC 21]**, has held that the Court must evaluate the prima facie evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused.

10. Similarly, the Hon'ble Apex Court in case of **Pralhad Singh Bhati Vs. NCT, Delhi [(2001)4 SCC 280]**, held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

11. Similarly, the Hon'ble Apex Court in case of **Ram Govind Upadhyay Vs. Sudarshan Singh [(2002)3 SCC 598]**,

has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous offences.

12. To secure bail, the applicant must establish that the evidence collected and intended to be presented by the prosecution fails to establish a prima facie case of the applicant's involvement in or commission of the alleged offence. As such, the applicant is disentitled to claim the bail.

13. In view of the aforesaid observations and having regard to the gravity of the offence, the applicant / accused is not entitled for release on bail, as this is not a fit case to exercise discretion to grant bail. As such, I do not find merit in the present application and accordingly, the bail application is **rejected**.

14. Needless to states that the observations rendered herein are to the extent of this application and the trial court shall not be influenced by the same.

15. The High Court Legal Services Sub-Committee, Aurangabad, to pay the fees to the learned counsel appointed on behalf of respondent No. 2, as per rules,

(SACHIN S. DESHMUKH, J.)

Omkar Joshi