



**IN THE JUDICATURE OF HIGH COURT AT BOMBAY
BENCH AT AURANGABAD**

918 BAIL APPLICATION NO. 509 OF 2025

Devidas Navnath Palve

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Rohit P. Patwardhan h/f Mr. Jadhav Sagar Krishna

APP for Respondents-State: Ms. P. V. Diggikar

Advocate for Respondent No.2 : Ms. Vanita H. Sangole (Jaitmal) (Appointed)

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CORAM : ARUN R. PEDNEKER, J.

Dated : June 26, 2025.

PER COURT :-

1. Heard learned counsel for the applicant, the learned APP for the respondent-State, and the learned appointed Counsel for respondent No.2.
2. The applicant is seeking bail as he was arrested in connection with FIR No.1206/2024, registered with Pathardi Police Station, District Ahmednagar, for the offences punishable under sections 137(2), 64(1) (2) (m), 65(1) of the Bharatiya Nyaya Sanhita, 2023 with Section 4 of the POCSO Act.
3. The father of the victim lodged the complaint. At the time of the incident, the victim was approximately 14 years and 9 months old. She was acquainted with the applicant/accused, as they reside in the same village. Their acquaintance developed into a love relationship, and they had been in contact with each other for about 3 to 4 months prior to the incident.
4. The victim went missing on 12/12/2024, and her father lodged a complaint on 13/12/2024. The learned Counsel for the applicant referred to the statement of the victim recorded under Section 183 of the BNSS. In that statement, the victim confirmed that she and the applicant had been in a

love relationship for approximately 3 to 4 months. She further stated that the applicant had taken her to a lodge, where physical relations occurred between them. Subsequently, she was taken to the applicant's house. However, following the persuasion of the applicant's parents and brother, the victim was dropped back at her home. A criminal offence under POCSO Act was thereafter registered against the applicant.

5. The learned Counsel for the applicant submits that there was love relationship between the victim and the applicant. He relied upon the judgment of this Court in *Criminal Application (BA) No.718 OF 2023, Nitin Damodar Dhaberao Vs. State of Maharashtra, Through Police Station Officer of Police Station, Anjangaon Surji, District Amravati and another*, decided on 05/01/2024, particularly paragraph No. 6, which supports his submission. It reads as under : -

"6. Having heard learned Counsel for the applicant and learned APP for the State. Perused the investigation papers. There is no dispute as to the fact that applicant is arrested on 30.08.2020 and there is no progress in the trial though charge-sheet is filed on 26.10.2020. As far as merit is concerned, admittedly victim is of 13 years of age and her consent is not relevant. However, the statements which are recorded by the Investigation Officer shows that victim has left her house at her own accord on the pretext of bringing the book from friend and not returned back at home. She also joined the company of the present applicant and also admitted her love relationship with the present applicant in her statement. From her statement it reveals that, she stayed along with the present applicant at various places and not made any grievance as she was taken by the present

applicant by using some force. Thus it is apparent that, out of the love affair, she joined the company of the present applicant. The applicant is also of a tender age of 26 years and out of love affair they come together. It seems that, the alleged incident of sexual relationship is out of the attraction between the two young persons and it is not the case that applicant has subjected the victim for a sexual assault out of lust. Considering the fact that, though charge-sheet is filed long back in the year 2020 and there is no progress in the trial and trial will take its own time for final disposal. In view of that, further incarceration of the present applicant is not required and no purpose will be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions....."

6. The learned APP submits that in the statement under Section 183 of the BNSS, the victim reiterated her statement given to the police.

7. Perusal of the same indicates that there were prior physical relations between the applicant and the victim. It is also apparent that there was a romantic relationship between the applicant and victim. Though, at this stage, consent is legally immaterial due to the age of the victim, this Court, in an identical fact situation as mentined above in case of *Nitin Damodar Dhaberao (Supra)*, granted regular bail to the accused.

8. Considering the above circumstances, the applicant is granted regular bail, on the condition that he shall stay away from Pathardi city, District Ahmednagar, except for the purpose of attending trial proceedings.

9. In view of the above, the application is allowed in the following terms: -

a] The applicant shall be released on bail in connection with FIR No.1206/2024, registered with Pathardi Police Station, District Ahmednagar, for the offences punishable under sections 137(2), 64(1) (2) (m), 65(1) of the Bharatiya Nyaya Sanhita, 2023 with Section 4 of the POCSO Act, on furnishing PR bond of Rs.25000/- with one or two sureties in the like amount to the satisfaction of the trial Court.

b] The applicant, upon being released on bail, shall not contact the informant, in any manner whatsoever, during the pendency of the trial.

c] The applicant shall co-operate with the trial Court and he shall attend each and every date, unless exempted by the trial Court.

d] The applicant shall not tamper with the evidence of the prosecution and he shall not influence the informant, witnesses and other persons concerned with the case.

e] The applicant, upon being released on bail, shall place on record of the trial Court the details of his Contact Number and residential address with updates in case of any change.

f] The applicant shall not enter Pathardi City or its vicinity until the conclusion of the trial, except for the purpose of attending the trial.

10. Needless to say, in case of violation of any of the aforesaid

conditions, the bail granted to the applicant shall be liable to be cancelled. It is also clarified that the observations made in this order are limited to the disposal of the present bail application. The concerned Court shall proceed further in the matter without being influenced by the observations made hereinabove.

11. Fees of the appointed advocate is quantified at Rs.10,000/- (in words rupees ten thousand only), to be paid by High Court Legal Services Sub-Committee, Aurangabad.

12. The application stands disposed of.

(ARUN R. PEDNEKER, J.)

vj gawade/-.