

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 3234 OF 2024

Suresh Balu @ Yashwant Pawar. ... Applicant.
Vs.
The State of Maharashtra & Anr. ... Respondents.

Mr. Shailesh Chavan, Advocate for the Applicant.
Advocate S. Srivastava, Advocate for Respondent No. 2.
Mr. P.H. Gaikwad, APP for respondent/State.

**CORAM : ASHWIN D.BHOBE, J.
DATE : 13th JUNE, 2025.**

P.C. :

1. Heard Mr. Shailesh Chavan, learned Advocate for the Applicant, Advocate S. Srivastava, for the Respondent No. 2 and Mr. P.H. Gaikwad, learned APP for State.
2. By the present Application filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), the Applicant seeks regular bail in Crime No. 1026 of 2023 registered at Satara City Police Station under section 376m 376(2)(n), 376(2)(f), 506 of the Indian Penal Code and Section 4, 6, and 5(j)(2), 5(1), 5(n) of POCSO Act.
3. The Applicant was arrested on 1st December, 2023 and since

then he is in jail.

4. The case of the prosecution is that the Applicant who is uncle of the Respondent No. 2 has committed rape on the victim (minor girl), who is niece of the Applicant. The FIR discloses atleast four of such sexual assaults on the Respondent No. 2 victim. Respondent No. 2 became pregnant and gave birth to a child.

5. Mr. Shailesh Chavan, learned Advocate for the Applicant submits that relation between the Applicant and the Respondent No. 2 was consensual. He points out the sonography report dated 14th November, 2023 to submit that the same shows the average Gestational Age is 25 weeks. He further points out the birth certificate of the child which shows the date of birth as 17th December, 2023. On the basis of the said documents, he submits that there is doubt created in the case of the prosecution. He submits that the Applicant is in custody for more than one and half year. He therefore prays that the Applicant be granted bail.

6. Learned APP submits that this is a case wherein an uncle

has taken advantage of his minor niece and in the said capacity has violated her. He submits that the results of the DNA analysis shows that the Applicant herein is a biological parent of the child. The result of DNA Analysis is taken on record and marked “X” collectively for identification. He submits that the offence committed by the Applicant is serious offence. He submits that the involvement of the Applicant is clearly established in the Complaint as well as in the statement made by the Respondent No. 2 recorded under Section 164 of the Code of Criminal Procedure, 1974. He therefore, opposes the bail.

7. Ms. Shreyashi Srivastava, learned Advocate for the Respondent No.2 submits that the Applicant has taken advantage of his relationship as an uncle and repeatedly raped her as a result of which she became pregnant. She submits that the contention of the Applicant of consensual relationship cannot be looked into as the Respondent No. 2 is a minor of 17 years and 7 months.

8. I have perused the record with the able assistance of the

learned Advocates.

9. Allegations in the FIR indicate that the Applicant committed rape on the Respondent No. 2 every time under threat. Applicant is the uncle of the victim. Nature of allegations against the Applicant, the material on record in the form of medical certificate, statement under section 164 of the Code of Criminal Procedure and the opinion/findings in the DNA Analysis, prima facie indicate the Applicant having taken disadvantage of his relation with the Respondent No. 2 and committed the offence as alleged in the crime. Contention of the Applicant of the relationship between the Applicant and the Respondent No. 2 being consensual cannot be accepted considering the Respondent No. 2 being a minor.

10. In view of the above, the Applicant is not entitled to any relief.

11. Criminal Bail Application No. 3234 of 2024 is rejected.

[ASHWIN D.BHOBE, J.]