

AGK

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

**BAIL APPLICATION NO.1002 OF 2024**

Rehan Abdul Rashid Shaikh ... Applicant

**V/s.**

The State of Maharashtra & Anr. ... Respondents

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Mr. S.K. Ali with Ms. Shabi Fatma and Ms. Pratibha Gupta i/by Asif Ali for the applicant.

Mrs. Mahalakshmi Ganapathy, APP for respondent No.1-State.

Mr. Mihir R. Govilkar for respondent No.2-victim (appointed as Legal Aid).

Ms. Mandakini Chopade, WPI, and Mr Nitin Palande, PSI, Trombay Police Station, Mumbai, is present.

**CORAM : AMIT BORKAR, J.**

**DATED : AUGUST 7, 2025**

**P.C.:**

1. Through this bail application filed under Section 439 of the Code of Criminal Procedure, 1973 ("Cr.P.C."), the applicant seeks regular bail in Crime Register No. 211 of 2023 registered at Trombay Police Station, Mumbai. The case involves offences under Sections 376(2)(j) and 506(2) of the Indian Penal Code, 1860 ("IPC") and Sections 4, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act").

2. According to the prosecution case, the victim and accused were known to each other. On 18th March 2023, the accused

called the victim to meet him and asked her to come alone. The victim initially refused, but after repeated requests from the applicant, she agreed to go with him. The applicant took her to his friend's house. He asked his friend to leave the house so that no one else was present. At that time, the accused committed sexual intercourse with the victim. The victim's age at the time of the incident was approximately 14 years. The accused threatened the victim that if she disclosed this matter to anyone, he would kill her. Thereafter, he repeatedly asked the victim for physical relations. Finally, the victim informed her mother about the incident.

3. The learned Advocate for the applicant submits that the applicant was arrested on 19th April 2023. While the victim's age at the relevant time was 14 years, the WhatsApp chat between the applicant and victim shows a consensual relationship. He submits that since the victim's evidence is now complete, the possibility of influencing the victim no longer exists. He therefore contends that in the absence of any criminal antecedents, the applicant is entitled to be released on bail.

4. On the other hand, the learned Additional Public Prosecutor and the learned Advocate appointed to represent respondent No. 2-victim have opposed the bail application. They contend that the allegations against the applicant are serious in nature. Since the victim's age at the relevant time was 14 years, her consent is not legally relevant. The learned Advocate for the victim has submitted that during the pendency of this bail application, relatives of the applicant assaulted relatives of the victim, and there is a possibility of such attacks during the pendency of the trial.

5. The applicant has been in custody since 19th April 2023, which amounts to a considerable period of incarceration. The victim's evidence has been completed, which indicates substantial progress in the trial proceedings. Prolonged detention without trial would violate the fundamental right to speedy trial guaranteed under Article 21 of the Constitution.

6. Since the victim's examination is complete and the material evidence has been collected by the investigating agency, there is no reasonable apprehension that the applicant will tamper with evidence or influence witnesses. The primary concern of witness intimidation stands eliminated with the completion of victim's testimony.

7. The applicant has no previous criminal record or history of similar offences. This clean antecedents support the presumption that he is unlikely to commit similar offences while on bail or abscond from the trial proceedings.

8. The applicant is entitled to the constitutional right of personal liberty under Article 21 of the Constitution. The fundamental principle of criminal jurisprudence is that an accused is presumed innocent until proven guilty. Continued detention should not amount to pre-trial punishment.

9. While the charges are serious, the prosecution case relies primarily on the victim's testimony. With the victim's evidence on record and investigation substantially complete, the accused's presence in custody is no longer essential for the investigation purposes.

**10.** The court can impose appropriate conditions to ensure that the applicant does not misuse his liberty, does not approach the victim or her family members, and remains available for trial proceedings.

**11.** Considering the nature of allegations, progress of trial, period of custody, and absence of criminal antecedents, the balance of convenience favors granting bail to the applicant subject to appropriate conditions.

**12.** Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.211 of 2023 registered with Trombay Police Station, Mumbai for offences punishable under Sections 376(2)(j), 506(2) of the IPC and Sections 4, 8, and 12 of the POCSO Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the victim.

(b) The applicant shall report to the Trombay Police Station, Mumbai once in a month, specifically on 1st Monday

of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) The cell phone shall be transmitted to the Trial Court, and the Trial Court shall pass appropriate orders in that behalf;

(g) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

**13.** The bail application is allowed and disposed of.

**(AMIT BORKAR, J.)**