

Shabnoor

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

BAIL APPLICATION NO.1018 OF 2024

SHABNOOR
AYUB
PATHAN

Digitally signed by
SHABNOOR AYUB
PATHAN
Date: 2025.06.10
17:17:53 +0530

Pravin Bhai Dayalbhai Sarola

... Applicant

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. S. T. Pandey a/w Kayal Upadhyaya with Deepika Jaiswal with Kiran Vyas for Applicant.

Ms. Shilpa G. Talhar, APP for State – respondent No.1.

Mr. Kishor G. Pashte, for respondent No.2.

Mr. Mukesh B. Mane, PSI V. B. Nagar Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 10, 2025

P.C.:

1. This is an application for bail filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks to be released on bail in connection with Crime Register No. I-40 of 2023, registered at Vinoba Bhave Nagar Police Station, Kurla West, Mumbai. The said crime concerns allegations involving serious offences punishable under Sections 376(2)(i), 366(A) of the Indian Penal Code, 1860 and Sections 4, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012 (commonly known as the “POCSO Act”).

2. As per the case of the prosecution, the victim is a minor girl

aged around 14 years at the relevant time. The applicant, who is stated to be her cousin uncle, and accused No.2, who is her cousin, had come to stay at the house of the victim in Mumbai as they were searching for employment. On 5th February 2023, while other members of the household were asleep, both the accused persons allegedly kidnapped the minor girl, took her to a railway station, and travelled with her to Kolkata. They stayed at the residence of the applicant's mother, while the victim was kept separately in another house situated around 10–15 minutes away. It is alleged that the accused persons made a phone call to the victim's mother and informed her that the girl was in their custody. The prosecution further alleges that accused No.2 committed forcible sexual intercourse with the minor. As regards the applicant, it is alleged that he touched the victim inappropriately on her private parts while she was sleeping, and upon her waking up, threatened and physically assaulted her. Eventually, the victim managed to contact the police and informed that she had fled from the house. She was then sent to a Children's Home. On 10th March 2023, the victim contacted her mother from the Children's Home, and was thereafter handed over to her family. Crime No. 40 of 2023 was registered based on her statement. The applicant was arrested on 14th March 2023. Investigation was completed and charge sheet has been filed. The application for bail filed by the applicant before the Sessions Court came to be rejected. Aggrieved by the said rejection, the present application has been preferred before this Court.

3. Learned Advocate for the applicant submitted that upon

perusal of the chargesheet and material on record, the specific role attributed to the applicant is limited to touching the victim and threatening her. It was argued that no act of sexual intercourse is attributed to the applicant. It was further contended that although the victim was allegedly kidnapped and taken to Kolkata, which is a journey of nearly two days by train, she did not raise any alarm or seek help during the journey. The applicant has also relied on the fact that he had handed over custody of the victim to a Child Care Facility on 13th February 2023, which indicates that he did not intend to continue any unlawful custody. The applicant has been arrested since 14th March 2023 and has been in judicial custody for more than two years. It is submitted that trial is not likely to be concluded in near future. Therefore, the applicant seeks to be released on bail by imposing suitable conditions.

4. On the other hand, learned counsel appointed through legal aid to represent respondent No.2 has opposed the bail application. It is submitted that the victim was forcibly taken to Kolkata under threats and coercion. The role of the applicant cannot be minimized, and the victim being a minor girl of 14 years at the relevant time, the allegations are of a grave nature. Therefore, it is prayed that the applicant should not be granted bail.

5. The learned Additional Public Prosecutor has also strongly opposed the application, arguing that the nature of the allegations, the young age of the victim, and the seriousness of the offences under the POCSO Act, clearly indicate that this is not a fit case for grant of bail. It is submitted that such offences have a serious impact on the physical and psychological well-being of minor

victims and, hence, leniency at this stage would not be appropriate.

6. I have carefully considered the material placed on record, including the chargesheet, the statement of the victim and her mother, as well as the medical papers. Upon a prima facie examination, certain facts emerge clearly from the prosecution material. The victim, at the time of the alleged offence, was about 14 years of age. The age of the applicant is around 33 years, which creates a significant age disparity between the accused and the victim.

7. The prosecution attributes to the co-accused the more serious allegation of committing forcible sexual intercourse with the victim. As far as the present applicant is concerned, the specific role assigned is that he touched the private part of the victim while she was asleep and thereafter threatened her. The allegations, though serious in nature, are distinct and limited in scope when compared to the primary allegation against the co-accused.

8. It is further alleged that the victim travelled from Mumbai to Kolkata along with the applicant, which is a long journey spanning nearly two days by public train. There is nothing on record to indicate that the victim made any attempt to raise an alarm or to alert any co-passenger or authority during the journey, which creates a doubt, albeit at the prima facie stage, regarding the voluntary nature of her conduct during the said period. It is further brought on record that the applicant handed over custody of the victim to a Child Care Facility on 13th February 2023, much before

the offence was formally reported or registered.

9. The applicant has been in custody since 13th March 2023 and has undergone incarceration of more than two years. The charge sheet is already filed and the trial is in progress. There is no material placed on record to suggest that the applicant has attempted to tamper with the evidence or influence the victim or witnesses. The trial, as informed, is likely to be concluded within the near future.

10. Taking into account the limited nature of the allegations against the applicant, the duration of his custody, and the absence of any prior criminal antecedents, I am of the considered opinion that a case is made out for granting bail to the applicant with strict conditions to safeguard the interests of the victim and ensure a fair trial.

11. Therefore, considering the totality of circumstances, including the role attributed to the applicant, the time already undergone in custody, and the progress of the trial, I find that this is a fit case for exercising discretion in favour of the applicant. The bail, however, shall be subject to stringent conditions to prevent any misuse of liberty or threat to the safety of the victim.

12. In view of the above, the following order is passed:

(a) The bail application is allowed.

(b) The applicant, *Pravin Bhai Dayalbhai Sarola*, shall be released on bail in connection with C.R. No. I-40 of 2023 registered with Vinoba Bhave Nagar Police Station, Kurla

West, Mumbai, upon furnishing a personal bond in the sum of ₹25,000/- (Rupees Twenty-Five Thousand only) with one or more solvent sureties in the like amount to the satisfaction of the Trial Court.

(c) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.

(d) The applicant shall not enter the locality where the victim resides and shall maintain a minimum distance of 500 meters from the place of the alleged incident.

(e) The applicant shall attend all trial dates and cooperate with the prosecution.

(f) The applicant shall not tamper with the evidence or influence any witnesses in any manner.

(g) The applicant shall furnish his present residential address to the trial court and inform the court of any change in his address during the pendency of the trial.

(h) The applicant shall not commit any offence during the pendency of the trial, failing which the bail granted to him is liable to be cancelled.

(AMIT BORKAR, J.)