

AGK

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

BAIL APPLICATION NO.1081 OF 2024

Shahid Raza Asgarali Khan ... Applicant

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. Khwaja Shaikh with Mr. Abhay G. Dolas for the applicant.

Mrs. Shilpa G. Talhar, APP for respondent No.1-State.

Mr. Ujjwal Gandhi for respondent No.2-original complainant.

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Mr. Sopan Bhagwat Wadkar, PSI (Pairavi), Sakinaka Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 8, 2025

P.C.:

1. This is a bail application filed by the applicant under Section 439 of the Code of Criminal Procedure, 1973, seeking regular bail in connection with Crime Register No. 2395 of 2022 registered at Sakinaka Police Station, Mumbai. The applicant has been arrested for offences punishable under Sections 354, 354(D), 504, and 506 of the Indian Penal Code, 1860, and also under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. As per the prosecution case, on 5th December 2022 at around 6:00 p.m., the minor victim had stepped out of her house.

On returning, when her mother (the complainant) inquired, the victim disclosed that the accused had followed her, caught her hand, and tried to express his feelings of love towards her. When the victim resisted and refused, the applicant allegedly used abusive and filthy language. It is further alleged that on an earlier occasion i.e., on 12th December 2022, the accused had forcibly taken the victim to Phoenix Mall, clicked a photograph with her against her will, and threatened to show it to her parents. The victim's parents thereafter approached the accused to caution him, but he allegedly abused and threatened them as well. Consequently, the complaint was lodged with the police.

3. The learned Advocate for the applicant submits that the nature of allegations is limited. According to him, the allegations pertain to catching the victim's hand, taking a photograph, and abusing her verbally. It is submitted that the applicant was arrested on 9th March 2023, and has been in custody since then, which is more than two years and four months. It is argued that continued incarceration is not necessary, and therefore, the applicant be released on regular bail.

4. On the other hand, the learned APP, along with the learned Advocate appearing for the minor victim (respondent No.2), strongly oppose the bail application. They point out that after registration of the crime, the brother of the applicant had allegedly threatened prosecution witnesses. They express concern that if the applicant is granted bail, there is a real apprehension that he may either threaten or influence the victim and witnesses, thereby obstructing the fair trial process. Hence, they seek rejection of the

application.

5. I have carefully perused the charge-sheet, including the statement of the victim and other material witnesses. Prima facie, the material shows that the applicant had caught hold of the hand of the minor girl, took a photograph with her in a public place, used inappropriate and filthy language, and threatened to reveal the photograph to her parents. These acts, on their face, appear to be serious in nature, especially in view of the age of the victim and the impact such conduct may have on her mental well-being. However, these allegations are yet to be tested during trial.

6. The maximum punishment prescribed for the offences alleged is five years. As noted, the applicant is already in custody for more than two years and four months. There is no record of any active role by the applicant himself in threatening witnesses after registration of the FIR. The possibility of threats or interference with the trial can be effectively addressed by imposing strict and appropriate conditions on the applicant's release. The object of bail is not to punish the accused at the pre-trial stage, but to ensure his availability for trial and to secure the ends of justice. Prolonged incarceration, particularly when the trial has not commenced or is proceeding slowly, may result in undue hardship.

7. Considering the overall facts, nature of allegations, duration of custody, and the principle that bail is the rule and jail is the exception, this Court is of the view that the applicant can be released on regular bail with suitable and stringent conditions to ensure that he does not contact, threaten or in any manner

influence the victim or prosecution witnesses.

8. 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.2395 of 2022 registered with Sakinaka Police Station, Mumbai for offences punishable under Sections 354, 354(D), 504 and 506 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offence Act, 2012, 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, in any manner, contact the victim or her family members, directly or indirectly.
 - b) The applicant shall not enter the locality where the victim resides, and shall maintain a distance of at least 500 meters from the place of alleged incident.
 - c) The applicant shall cooperate with the prosecution and attend all trial dates regularly.
 - d) The applicant shall not tamper with evidence or influence any witness.
 - e) The applicant shall provide his current residential address and inform the court in case of change of residence.

- f) The applicant shall not commit any offence during the pendency of trial, failing which his bail is liable to be cancelled.
 - g) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.
4. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)