

Shabnoor

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

BAIL APPLICATION NO.1093 OF 2024

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Sandeep Kalusingh Bhul	... Applicant
V/s.	
State of Maharashtra & Anr.	... Respondents

Mr. Advait Shukla a/w Neetu Singh for the Applicant.

Mrs. Rajashree Newton APP for State – respondent No.1.

Mr. Maruti Parshuram Mahavarkar appointed as Legal Aid counsel for respondent No.2.

Mr. Pramod Kamble, P.I., Juhu Police Station.

CORAM : AMIT BORKAR, J.

DATED : JUNE 26, 2025

P.C.:

1. This is a bail application filed under Section 439 of the Code of Criminal Procedure, 1973, by the applicant seeking his release in connection with Crime Register No.453 of 2023 registered at Juhu Police Station, Mumbai, for the offence punishable under Section 376 of the Indian Penal Code, 1860, and also under Sections 4, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, *POCSO Act*).

2. The case of the prosecution, as gathered from the First Information Report (FIR), is that the sister of the victim girl lodged a complaint stating that the victim had come to stay with her and

was working with one Shefali Madam. The applicant is a watchman at Himanshu Society, and is stated to be a resident of Nepal. It is further stated that the victim and the applicant knew each other for some time. On 27 July 2023, at around 7:30 p.m., it is alleged that the applicant committed forcible sexual intercourse with the victim in an auto rickshaw parked near Juhu Beach. The FIR came to be registered on 30 July 2023, based on the report filed by the victim's sister. The applicant was subsequently arrested on 5 August 2023. His earlier application for bail before the Sessions Court was rejected, and hence the present application is filed before this Court.

3. Learned Advocate appearing for the applicant submitted that the allegation of rape in a public place like Juhu Beach at 7:30 p.m. on a Saturday evening, which is typically crowded, is inherently improbable. It is argued that no CCTV footage has been recovered and the auto rickshaw in question has not been traced or seized by the Investigating Officer. It is further submitted that the applicant has no prior criminal record, and there is no likelihood that he will tamper with evidence or threaten witnesses. The charge-sheet is already filed and charges are yet to be framed. The learned counsel submitted that considering the delay in trial and the fact that the applicant is in custody since August 2023, this is a fit case to grant bail.

4. On the other hand, the learned Additional Public Prosecutor, assisted by the appointed counsel for the victim, has strongly opposed the bail. It is submitted that the allegations against the applicant are serious and grave in nature involving the sexual

assault of a minor girl, which attracts stringent provisions of the POCSO Act. Further, it is submitted that the applicant is a native of Nepal, and if he is released on bail, there exists a genuine apprehension that he may flee from India and evade the process of law. The learned APP also submitted that the statement of the victim under Section 164 of Cr.P.C. supports the prosecution case, and therefore, the applicant does not deserve to be released on bail at this stage.

5. I have carefully considered the rival submissions of the learned counsel for the applicant, the learned Additional Public Prosecutor, and the learned counsel appearing for the victim. I have also perused the papers of investigation placed before me.

6. The FIR in the present case is lodged on 30 July 2023, whereas the alleged incident took place on 27 July 2023. The applicant was arrested thereafter on 5 August 2023 and has been in custody for a considerable period. It is not in dispute that the charge-sheet has been filed, and therefore, investigation is complete. The statement of the victim under Section 164 of CrPC has been recorded and forms part of the charge-sheet.

7. On a prima facie perusal of the material placed on record, it appears that the incident is alleged to have occurred in a public place like Juhu Beach at around 7:30 p.m., which, as rightly argued by the learned advocate for the applicant, is generally crowded, especially on weekends. However, there is no recovery of CCTV footage nor seizure of the auto rickshaw, wherein the alleged incident took place. These circumstances do create doubt

about the manner of occurrence, though this Court refrains from making any conclusive observations at this stage, as the same would be subject matter of trial.

8. It is also an admitted position that the applicant has no prior criminal antecedents. There is no material to show that he has ever attempted to influence witnesses or tamper with evidence. Though it is argued by the prosecution that the applicant is a Nepalese national, there is nothing on record to show that he has attempted to abscond at any point prior to his arrest or during investigation. In any case, appropriate stringent conditions can be imposed to secure his presence for trial and to ensure he does not misuse the liberty granted.

9. At this stage, this Court is not expected to go into the merits of the allegations in detail, and a balance needs to be struck between the liberty of the accused and the interest of justice. In view of the overall circumstances, and considering the fact that the trial is likely to take time, I am of the opinion that the applicant deserves to be released on bail.

10. Hence, the following order :

(a) The Bail Application stands allowed.

(b) The applicant shall be released on cash bail of ₹25,000/- (Rupees Twenty-Five Thousand only) in connection with Crim Register No. 453 of 2023, registered with Juhu Police Station, Mumbai, under Section 376 of IPC, and under Sections 4, 8, and 12 of the POCSO Act.

(c) Within a period of six weeks from the date of his release, the applicant shall furnish a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) with one or more solvent sureties in the like amount, to the satisfaction of the learned Special Court.

(d) The applicant shall not directly or indirectly make any contact with the victim or family members of the victim and/or any prosecution witnesses, and shall not tamper with the evidence in any manner.

(d) The applicant shall report to the concerned police station twice in every month (i.e., on 1st and 15th day of every month) between 10:00 a.m. to 12:00 noon, until further orders.

(e) The applicant shall furnish his current residential address and mobile number to the Investigating Officer, and shall inform the Investigating Officer of any change in address or contact details forthwith.

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

11. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)