

Shabnoor

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

BAIL APPLICATION NO.1441 OF 2024

Prashant Dilip Patil ... Applicant
V/s.
State of Maharashtra & Anr. ... Respondents

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Mr. Ramanik P. Pawar a/w Rahul H. Gupta, Ms. Samiksha Pawar for the applicant.

Mrs. Rajashree V. Newton, APP for the State – respondent No.1.

Ms. Rachita Padwal i/b Ms. Saziya Afzal Mukadam for respondent No.2.

Mr. Nileshkumar Sanbhji Wagh, Turbhe Police Station.

CORAM : AMIT BORKAR, J.

DATED : JULY 15, 2025

P.C.:

1. By the present application filed under Section 439 of the Code of Criminal Procedure, 1973, the applicant is seeking regular bail in connection with Crime Register No. 172 of 2023 registered with Turbhe Police Station. The applicant is facing serious allegations of committing sexual assault on a minor girl and has been booked for offences punishable under Sections 376(2)(j), 376(2)(f), 376(2), 376(2)(n), 506 of the Indian Penal Code, 1860. In addition, Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) have also been invoked

against him.

2. As per the case of the prosecution, the informant – who is the mother of the victim girl – lodged a complaint stating that they originally hail from West Bengal and have been residing at Turbhe, Navi Mumbai. Her husband passed away about five years ago, and since then she has been taking care of her children, including her minor daughter who is currently 15 years old and studying in the 8th standard. It is alleged that about three years ago, the informant came in contact with the present applicant – Prashant Dilip Patil – and based on mutual understanding, they decided to get married. Although the applicant was unemployed, the informant's children began treating him as a father figure.

3. In March 2023, the informant left for Shrigonda to earn livelihood, leaving her children in the custody of the applicant. It is alleged that on returning home on 16th April 2023, she noticed that her minor daughter was withdrawn and silent, which raised suspicion. Upon inquiring and after being gently persuaded, the daughter disclosed that during the absence of her mother, the applicant told her that he would marry her, and one night while she was sleeping, he removed her clothes and initially attempted, and thereafter forcefully committed sexual intercourse with her against her will. She also stated that the applicant threatened her not to disclose anything. Later, on 1st May 2023, the applicant again committed the said act. Thereafter, the minor narrated the incidents to her mother, and the family decided to approach the police. The report came to be registered on 7th May 2023, and the applicant was arrested on the same day.

4. The learned Advocate for the applicant submitted that the complaint is false and has been filed with mala fide intention. It is submitted that the applicant had lent a substantial amount of money to the informant (mother of the victim), and on demanding repayment, she filed a false complaint against him. It is also contended that the alleged incidents took place between 1st April 2023 and 1st May 2023, but the report was lodged only on 7th May 2023, which creates doubt about its genuineness. It is further argued that the applicant was at Jalgaon between 27th April and 1st May 2023 and was not present in Navi Mumbai during that period. The learned Advocate also submitted that the medical report does not support the allegations of rape and that the applicant never promised marriage to the informant. Reliance was placed on several judgments of the Hon'ble Supreme Court, such as *Tulshidas Kanolkar vs. State of Goa* [(2003) 8 SCC 590], *Preeti Gupta & Anr. vs. State of Jharkhand & Anr.* [(2010) 7 SCC 667], *Narender Kumar vs. State (NCT of Delhi)* [(2012) 7 SCC 171], and *Kaini Rajan vs. State of Kerala* [(2013) 9 SCC 113] in support of the applicant's case.

5. On the other hand, the learned APP and the learned counsel appointed to represent the minor victim strongly opposed the grant of bail. They submitted that the victim is only 15 years old and a student of class 8. The informant was in a relationship with the applicant, and her children treated the applicant as their guardian or father. Taking advantage of the informant's absence, the applicant committed rape on the minor child in the very household where he was trusted. It is submitted that the victim

was initially hesitant to disclose the incident due to fear and trauma, but eventually revealed the entire episode to her mother, which was followed by prompt action by lodging a police report. The medical examination of the victim showed that there were tears in the hymen consistent with recent sexual activity. Moreover, the victim's statement recorded under Section 164 of the Cr.P.C. is in consonance with her initial statement, and clearly implicates the applicant in the commission of sexual assault. Hence, it is argued that there is no reason to disbelieve the minor victim at this stage, and the application for bail be rejected.

6. Having carefully considered the material on record, this Court finds that the applicant stands accused of extremely heinous and serious offences under the Indian Penal Code and the Protection of Children from Sexual Offences Act, 2012. The specific charges framed against the applicant include rape by a person in position of trust or authority under Section 376(2)(j) IPC, rape of a woman under sixteen years of age under Section 376(2)(f) IPC, rape causing physical or mental harm under Section 376(2)(n) IPC, criminal intimidation under Section 506 IPC, and penetrative sexual assault and sexual assault of a minor under Sections 4 and 8 of the POCSO Act respectively.

7. It is well-settled that these are non-bailable offences attracting severe punishment, including imprisonment for life. The legislature, in its wisdom, has prescribed stringent provisions for such crimes to reflect the gravity with which society views sexual offences against children. The very categorization of these offences as non-bailable demonstrates the legislative intent that such crimes

should be treated with utmost seriousness and that the liberty of the accused should not be easily granted.

8. From the record, it is evident that the applicant was placed in a position of trust and authority over the victim child. The prosecution case clearly establishes that the victim's mother was in a relationship with the applicant with mutual understanding to get married. The children in the household, including the victim, had begun treating the applicant as their father figure, especially considering that their biological father had passed away five years prior.

9. Most significantly, when the informant left for Shrigonda in March 2023 to earn livelihood, she entrusted the care and custody of her children, including the minor victim, to the applicant. It is in this very household, where the applicant was trusted as a guardian and father figure, that the alleged sexual assault took place. This represents not merely a criminal act, but a grave and unconscionable breach of the sacred trust and fiduciary relationship that was reposed in the applicant by the victim's family.

10. When a person in position of trust commits sexual offence against a minor, it amounts to a more serious form of the crime. The applicant has violated the most fundamental duty of protection that was expected of him towards the victim child.

11. The victim in the present case is a 15-year-old girl studying in the 8th standard, which makes her particularly vulnerable on multiple counts. Firstly, her tender age places her in a category

that requires special protection under the law. Secondly, the victim has been rendered more vulnerable due to the death of her father five years ago, leaving her in a single-parent household with limited financial resources. The informant's decision to leave for Shrigonda to earn livelihood demonstrates the family's precarious economic situation, which further increased the victim's dependence on the applicant. The victim's emotional vulnerability is evident from the fact that she had started treating the applicant as a father figure, thereby creating a relationship of trust and dependence that was exploited by the applicant.

12. It is well-established in law that children, particularly those from economically disadvantaged backgrounds and broken families, are more susceptible to sexual abuse. The legislature has recognized this vulnerability by enacting the POCSO Act, which mandates that courts must consider the best interests of the child while deciding bail applications in cases involving sexual offences against minors.

13. The allegations, as emerging from the record, reveal a disturbing and systematic pattern of abuse perpetrated by the applicant. According to the prosecution case, the applicant first allegedly told the victim that he would marry her, which appears to be a classic case of grooming behavior designed to manipulate and confuse the minor victim. The first incident of sexual assault allegedly occurred on 16th April 2023, when the applicant forcefully committed sexual intercourse with the victim against her will after removing her clothes while she was sleeping. The applicant then allegedly threatened the victim not to disclose the

incident to anyone, which clearly constitutes criminal intimidation under Section 506 IPC. The second incident allegedly took place on 1st May 2023, indicating that the applicant continued his criminal conduct despite the victim's obvious distress. The systematic nature of these offences, coupled with the threats and intimidation, demonstrates a calculated pattern of abuse that was designed to ensure the victim's silence and continued submission. Such pattern of behavior indicates that the applicant poses a serious threat to the victim and potentially to other minors, thereby making his release on bail highly inappropriate and dangerous.

14. Upon careful examination of the material on record, this Court finds that the prosecution has prima facie established a cogent and reliable case against the applicant. The victim's initial disclosure to her mother is consistent with her subsequent statement recorded under Section 164 of the Criminal Procedure Code before the learned Magistrate. Such consistency in the victim's narration strengthens the prosecution case considerably. The medical examination conducted on the victim has revealed tears in the hymen, which according to the prosecution, are consistent with recent sexual activity. This medical evidence provides crucial corroboration to the victim's testimony and cannot be easily dismissed. Furthermore, the behavioral change observed in the victim upon her mother's return from Shrigonda - namely, her withdrawn and silent demeanor - is entirely consistent with the trauma typically experienced by victims of sexual assault. The victim's initial hesitation to disclose the incidents is also

understandable given her age, the relationship of trust with the applicant, and the fear instilled by his threats. The fact that the victim eventually mustered the courage to narrate the entire episode to her mother, leading to the prompt lodging of the police complaint, demonstrates the genuineness of her allegations. At this stage of the proceedings, particularly during bail consideration, there is no reason to disbelieve the minor victim's statement, especially when it is supported by medical evidence and consistent throughout.

15. If the applicant is released on bail at this stage, there is a substantial and genuine apprehension that he may tamper with evidence or influence witnesses, particularly the victim herself. Given the nature of the relationship between the applicant and the victim's family, and considering that the victim is still a minor, the risk of intimidation or pressure being exerted on her or her family to withdraw the complaint cannot be ruled out.

16. Sexual offences against minors often occur within the family or close social circle, making the victim particularly vulnerable to pressure and intimidation. The applicant's knowledge of the victim's family circumstances, their economic vulnerabilities, and their social environment places him in a position where he could potentially influence the course of the investigation or trial. Moreover, the applicant may also attempt to contact other potential witnesses or destroy any evidence that might be relevant to the case. The investigation is still ongoing, and the applicant's release could seriously prejudice the fair and proper conduct of the investigation.

17. Considering the nature of the allegations and the pattern of conduct attributed to the applicant, there is a reasonable apprehension that if released on bail, the applicant may commit similar offences against other vulnerable minors. Sexual offenders, particularly those who target children, often exhibit recidivist tendencies, and the risk of repetition cannot be ignored.

18. The applicant's alleged conduct demonstrates a complete disregard for the law and for the safety and dignity of children. His release on bail would not only pose a threat to the victim but also to other children in the community who might come into contact with him. Furthermore, there is also a risk that the applicant might abscond from justice, given the serious nature of the charges and the severe punishment that these offences carry. The applicant's unemployment status, as mentioned in the case record, indicates that he may not have strong ties to the community that would ensure his presence during the trial.

19. The applicant's contention that the complaint is false and motivated by the applicant's demand for repayment of money allegedly lent to the informant does not explain the specific and detailed nature of the sexual assault allegations made by the minor victim.

20. The contention that the applicant was at Jalgaon between 27th April and 1st May 2023 requires proper verification during the trial. However, it must be noted that the prosecution has alleged multiple incidents, and the applicant's presence or absence on specific dates needs to be thoroughly investigated. Such factual

disputes cannot be resolved at the bail stage and require a full trial.

21. The applicant's submission that the medical report does not support the allegations is contradicted by the prosecution's assertion that the medical examination revealed tears in the hymen consistent with recent sexual activity. The interpretation of medical evidence is a matter that requires expert testimony and cannot be conclusively determined at the bail stage.

22. After careful consideration of all the material on record, the submissions made by the learned counsel for the applicant, the strong opposition raised by the learned Additional Public Prosecutor and the counsel for the minor victim, and the legal principles governing the grant of bail in cases involving sexual offences against minors, this Court is of the considered view that no case is made out for granting bail to the applicant.

23. The totality of circumstances in the present case clearly indicates that the applicant stands accused of extremely serious offences under the Indian Penal Code and the POCSO Act. The allegations reveal a systematic pattern of sexual abuse committed against a vulnerable minor who was under the care and protection of the applicant. The breach of trust and fiduciary relationship makes the offence even more heinous and unpardonable.

24. The prosecution has established a prima facie case supported by the victim's consistent statement, medical evidence, and behavioral corroboration. The applicant's contentions are not sufficient to create reasonable doubt about the prosecution case at

this stage. The risk of tampering with evidence, intimidation of witnesses, and repetition of offence cannot be ruled out if the applicant is granted bail.

25. In view of the above analysis and reasoning, this Court finds that the interests of justice would be better served by keeping the applicant in custody. The application for regular bail is accordingly rejected.

26. Accordingly, the Bail Application stands rejected.

(AMIT BORKAR, J.)