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

BAIL APPLICATION NO.2231 OF 2024

Harishchandra Gangaram Bhosale	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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Mr. Gounder Johnson Sebastian for the applicant.

Mr. Sagar R. Agarkar, APP for respondent No.1-State.

Mr. Gaurav Sharma with Mr. Nagraj Tarade for
respondent No.2-victim (appointed as Legal Aid).

Ms. Nisha Chavan, API, Mumbra Police Station, is
present.

CORAM : AMIT BORKAR, J.

DATED : JULY 31, 2025

P.C.:

1. Through the present bail application filed under Section 439 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "Cr.P.C."), the accused is seeking regular bail in Crime Register No.132 of 2023 registered at Mumbai Police Station. The case involves charges under Sections 376, 376(2)(n), and 376AB of the Indian Penal Code (hereinafter referred to as "IPC") and Sections 4, 6, 8, 10, and 12 of the Protection of Children from Sexual Offences Act, 2013 (hereinafter referred to as "POCSO Act").

2. The prosecution case states that the accused lives in the same building as the complainant, who resides there with her

husband and two daughters. On 5th February 2023, the complainant's daughter complained to her mother about severe pain while urinating and chest pain. When the mother spoke to her daughter, the child revealed that on 16th January 2023, the accused had called her to his room. Under the pretense of giving her Cadbury chocolate, he touched her private parts and molested her.

3. The learned counsel for the accused argued that while the alleged incident happened in January 2023, the complaint was filed only after 20 days. The accused was arrested on 6th February 2023, and the trial is not likely to conclude in the near future. The counsel further submitted that the accused is a senior citizen and therefore should be granted regular bail.

4. On the other hand, the learned Additional Public Prosecutor and the learned counsel representing the victim (respondent No.2) opposed the bail application. They argued that there are two victims in this case - one aged nine years and another aged seven years. The accused is 60 years old. The statements of both victims recorded under Sections 161 and 164 of Cr.P.C. are consistent and clearly indicate that the accused committed sexual assault on both children.

5. The victim has described the sexual assault committed by the accused in her statement recorded under Section 164 Cr.P.C. It is also stated that when the victim was with another child, the accused asked that child to leave and then committed sexual assault on the victim's sister. The accused also showed indecent

videos to the victim. When the victim experienced pain in her private parts, she disclosed the incident to her mother. Therefore, it is prayed that the bail application should be rejected.

6. After carefully considering the submissions made by both sides and examining the material on record, this Court finds that the present bail application deserves to be rejected for the following detailed reasons:

7. The charges against the accused are extremely serious and involve sexual offences against minor children under the Indian Penal Code and the POCSO Act. The offences under Sections 376, 376(2)(n), and 376AB of IPC carry punishment of rigorous imprisonment which may extend to life imprisonment. Similarly, the offences under the POCSO Act are heinous crimes against children and attract severe punishment. The gravity of these offences by itself militates against the grant of bail, as established by the Supreme Court in numerous pronouncements.

8. The victims in the present case are tender-aged children of seven and nine years respectively. Sexual offences against such young and innocent children are particularly abhorrent and require the Court to exercise extreme caution while considering bail applications. The vulnerability of the victims and their tender age make them susceptible to threats, intimidation, and influence, which could seriously prejudice the prosecution case if the accused is released on bail.

9. The statements of both child victims recorded under Sections 161 and 164 of Cr.P.C. are consistent and corroborate each other

regarding the criminal acts committed by the accused. The victim has provided specific details of the sexual assault in her statement under Section 164 Cr.P.C., which indicates that the child has sufficient understanding of the incidents and can distinguish between truth and falsehood. The consistency in the victims' accounts strengthens the prosecution case and indicates that the allegations are not fabricated.

10. The material on record reveals a disturbing pattern of systematic abuse by the accused. The accused not only committed sexual assault on one victim but also targeted her sister. The fact that he asked another child to leave when the victim was present shows calculated and premeditated criminal behavior. Furthermore, showing indecent videos to the minor victim demonstrates the accused's intent to corrupt the minds of innocent children and his systematic approach to committing these heinous crimes.

11. Based on the consistent statements of the victims and the specific details provided by them, a prima facie strong case is made out against the accused. The victims' statements are supported by the fact that one victim complained of physical pain, which led to the disclosure of the incidents. This physical manifestation of the trauma suffered by the child victim lends credibility to the allegations and establishes a strong prima facie case against the accused.

12. The accused resides in the same building as the victims, which provided him easy access to commit the alleged offences.

This proximity factor is crucial as it demonstrates how the accused exploited the trust of the family and the innocent nature of the children. If released on bail, the accused would continue to have the same proximity to the victims, creating a serious risk of tampering with evidence, influencing witnesses, or even repeating similar offences.

13. Given that the accused lives in the same building as the victims and their family, there is a genuine and substantial risk that he may directly or indirectly influence the child witnesses or their family members if released on bail. Child witnesses are particularly vulnerable to influence, threats, or inducements, and their testimony forms the cornerstone of the prosecution case. The accused's release could seriously jeopardize the fair trial and the interests of justice.

14. While the learned counsel for the accused has argued about the delay of 20 days in filing the complaint, this Court notes that such delay is not uncommon in cases involving sexual offences against children. Children often take time to understand what has happened to them and to find the courage to disclose such traumatic incidents to their parents. The delay in reporting, particularly in cases involving minor victims, cannot be used as grounds for granting bail when the allegations are otherwise credible and consistent.

15. Although the accused is a senior citizen aged 60 years, this factor alone cannot outweigh the serious nature of the offences and the compelling reasons against granting bail. The age of the

accused does not diminish the gravity of the charges or reduce the risk he poses to the victims and society. The courts have consistently held that the age of the accused, by itself, is not a ground for granting bail in serious offences, particularly those involving crimes against children.

16. Crimes against children, especially sexual offences, shake the very foundation of a civilized society and erode public confidence in the safety and security of the most vulnerable members of our community. Granting bail in such cases without compelling circumstances would send a wrong message to society and could encourage similar crimes. The public interest demands that such offenders are not easily released on bail, ensuring that the legal system maintains its credibility in protecting children.

17. The release of the accused on bail could prejudice the fair trial of the case. Given the nature of the charges and the vulnerability of the witnesses, there is a substantial risk that the accused may attempt to influence the proceedings or intimidate the victims and their families. The proper administration of justice requires that the accused remains in custody to ensure that the trial proceeds without any external influence or pressure on the witnesses.

18. Considering all the above factors collectively - the heinous nature of the offences, the tender age and vulnerability of the victims, the strong prima facie case, the risk of tampering with evidence and influencing witnesses, the pattern of systematic abuse, and the overriding public interest in protecting children -

this Court is of the firm opinion that the accused does not deserve to be released on bail at this stage.

19. The present bail application is accordingly rejected.

(AMIT BORKAR, J.)