

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 2547 OF 2024
WITH
INTERIM APPLICATION NO. 1898 OF 2025
IN
CRIMINAL BAIL APPLICATION NO. 2547 OF 2024

Ram Shankarrao Bembare ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

Ms. Archana Pandharinath Gaikwad a/w Mr. Jay Kholiya & Mr. Harshal Khavale, learned Advocates for the Applicant.

Mr. Tanveer G. Khan, learned A.P.P. for the State/Respondent.

Ms. Kanchan Pawar (Appointed through Legal-aid Panel), learned Advocate for Respondent No. 2.

CORAM : ASHWIN D. BHOBE, J.

DATE : 22nd AUGUST 2025.

P.C. :

1. Heard Ms. Archana Gaikwad, learned Advocate for the Applicant, Mr. Tanveer Khan, learned A.P.P. for the State/Respondent and Ms. Kanchan Pawar, learned Advocate for Respondent No. 2.

2. Amongst other sections, the offences charged against the Applicant in the present crime are under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 ("SC/ST Act" for short), as such the proceedings are recorded in terms of the law laid down by this Court in the case of *Dr. Hema Suresh Ahuja &*

*Others v/s. The State of Maharashtra and Others*¹.

3. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 60 of 2018 registered with Karjat Police Station, District-Raigad for the offences punishable under Sections 376(2) (D), (F), (I), 354, 354(B), 354(C) & 377 of the Indian Penal Code, 1860 (“IPC” for short), Sections 4, 5, 6, 8, 13, 14, 19(1) & 21 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act” for short), Sections 66(E), 67(B) & (E) of the Information Technology Act, 2000 (“IT Act” for short), Sections 75 & 82 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (“Juvenile Justice Act” for short) and Sections 3(1)(r), (S), (W), 3(2) & (Va) of the SC/ST Act.

4. Ms. Archana Gaikwad, learned Advocate for the Applicant submits that Crime No. 60 of 2018 is registered as Special Case (POCSO) No. 288 of 2020 and is pending on the file of Additional Sessions Judge, Panvel-Raigad.

5. There are 3 accused persons in the present crime. Applicant is Accused No. 1.

6. Applicant was arrested on 30th March 2018, since then he is in jail. Criminal Bail Application at Exhibit-142 filed by the Applicant in Special Case (POCSO) No. 288 of 2020, was rejected by the learned Extra Joint District & Additional Sessions Judge, Panvel-Raigad by order dated 26th April 2024.

¹ Criminal Appeal No. 911 of 2019 decided on 13th March 2024.

7. Ms. Archana Gaikwad, learned Advocate for the Applicant at the outset submits that Applicant is seeking bail on the sole ground of long incarceration. She submits that till date the prosecution has examined only 2 witnesses, out of the 65 witnesses, listed by the prosecution in Crime No. 60 of 2018. She submits that the trial is proceeding at a very slow pace and that the conclusion of trial will be delayed. She submits that the Applicant is in jail for a continuous period of 7 years and 5 months. She relies on the orders of this Court in the cases of *Vikas Chandrakant Patil v/s. The State of Maharashtra*² and *Niklesh Prakash Patil v/s. The State of Maharashtra*³ in support of her contention for grant of bail on the grounds of long incarceration and denial of Applicant's right to speedy trial.

8. Mr. Tanveer Khan, learned A.P.P. for the State/Respondent does not dispute that till date the prosecution has examined 2 victims. He further does not dispute the Applicant being in jail for a period of 7 years and 5 months, as submitted by Ms. Archana Gaikwad, learned Advocate for the Applicant. Mr. Tanveer Khan, learned A.P.P. for the State/Respondent however expresses apprehension of the Applicant influencing the prosecution witnesses and tampering with the evidence, if released on bail.

9. Ms. Kanchan Pawar, learned Advocate for Respondent No. 2 submits that the Applicant has committed a serious crime. She submits that long incarceration cannot be a ground in serious matters, more so when the trial in Special Case (POCSO) No. 288 of 2020 has commenced and is proceeding.

² Bail Application No. 1963 of 2025 decided on 9th May 2025.

³ Bail Application No. 1208 of 2025 decided on 8th May 2025.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. This Court (Coram : N. R. Borkar, J.) on 28th January 2025, had passed the following order :-

“1. The applicant is in jail for more than six years and eleven months. Since 09.02.2023, there is no effective progress in the trial. The learned APP submits that considering the seriousness of the crime, the applicant may not be released on bail and reasonable time be granted to the prosecution to examine rest of the witnesses.

2. List the application on 27.03.2025. By next date, the prosecution shall endeavour to examine the victims in the present crime or else, this Court will be constrained to release the applicant on bail.”

12. Records of Special Case (POCSO) No. 288 of 2020 reveal that from 28th January 2025 till date prosecution has examined two (2) out of the twelve (12) victims. Respondent has failed to give justifiable ground for not examining the victims within the period referred to in the order dated 28th January 2025.

13. Considering the observations of this Court in the order dated 28th January 2025, the fact of Applicant being in jail from 30th March 2018, Ms. Archana Gaikwad would be justified in pressing the bail on the ground of Applicant's long incarceration and delay in completion of trial. Applicant cannot continue to be incarcerated as a under-trial, indefinitely. This Court is therefore constrained to enlarge the Applicant on bail on the sole ground of long incarceration and slow progress in the trial.

14. Apprehensions expressed by Mr. Tanveer Khan can be taken care by imposing conditions on the Applicant.

15. Ms. Archana Gaikwad, learned Advocate for the Applicant, in response to the apprehensions expressed by Mr. Tanveer Khan, submits that the Applicant shall abide by all the conditions that may be imposed by this Court. She on instructions from the Applicant makes a statement that till conclusion of trial in Special Case (POCSO) No. 288 of 2020, the Applicant shall not enter the jurisdiction of District-Raigad. She has tendered a *pursis* of today's date giving the details of the address the Applicant would reside, if released on bail, same is taken on record and marked "X" for identification. Address mentioned in the *pursis* is at C/o. 501, Dhanashree Anand 1, Handewadi Chowk, Handewadi, Taluka-Haveli, District-Pune, 411 028. Statements are accepted.

16. In view of the above, the Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 60 of 2018 registered with Karjat Police Station, District-Raigad for the offences punishable under Sections 376(2)(D), (F), (I), 354, 354(B), 354(C) & 377 of the IPC, Sections 4, 5, 6, 8, 13, 14, 19(1) & 21 of the POCSO Act, Sections 66(E), 67(B) & (E) of the IT Act, Sections 75 & 82 of the Juvenile Justice Act and Sections 3(1)(r), (S), (W), 3(2) & (Va) of the SC/ST Act on executing P.R. Bond in the sum

of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two local sureties in the like amount to the satisfaction of the Additional Sessions Judge, Panvel-Raigad.

- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade such a person from disclosing the facts to the Court or to any police personnel. Applicant shall not tamper with the prosecution evidence.
- c. Applicant shall not contact or attempt to contact the victim/s or Respondent No. 2 or any person connected with the victim/s or any of the management/staff of Vinoba Mukhbadhir Shala/School, Karjat or any witness in the present crime.
- d. Applicant upon his release from jail, within a period of three days from his release, shall furnish his cell phone number with proof to the Investigating Officer, Karjat Police Station, District-Raigad and shall keep the same updated, in case of any change thereto. Till conclusion of trial Applicant shall reside at the address mention in the *pursis* ("X").
- e. Applicant shall co-operate in the conduct of the trial and shall regularly attend the hearing of

Special Case (POCSO) No. 288 of 2020, pending on the file of Additional Sessions Judge, Panvel-Raigad, on each and every date, unless exempted from appearance.

- f. Applicant shall report/attend before the Investigating Officer, Kalepadal Police Station, Pune City on 1st & 4th Saturday of every month from 10.00 a.m. to 12.00 noon till conclusion of trial in Special Case (POCSO) No. 288 of 2020. The Police Inspector of Kalepadal Police Station, Pune City to communicate details thereof to the Investigating Officer Karjat Police Station, District-Raigad.
- g. Applicant shall not enter the territorial jurisdiction of District-Raigad, till conclusion of the trial of Special Case (POCSO) No. 288 of 2020, except for attending the hearing of the said case.

17. Criminal Bail Application No. 2547 of 2024 stands disposed of in the abovesaid terms. All pending Application/s stand disposed.

[ASHWIN D. BHOBE, J.]

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