

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

BAIL APPLICATION NO.2558 OF 2024

Radharaman Ramjar Pande

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Ms. Jyoti R Shahu, *for the applicant.*

Ms. Manisha R. Tidke, *APP for the Respondent - State.*

Ms. Aneesa Cheema, *appointed Advocate for the Respondent
No.2 through legal aid.*

PSI – Tukaram V. Mengal, PSI, Aarey Police Station, Mumbai,
present.

CORAM DR. NEELA GOKHALE, J.
DATED: 30th SEPTEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R.No.578 of 2020 registered with the Aarey Police Station, for the offences punishable under Sections 376(A), (B), 376(2)(N) and 377 of the Indian Penal Code, 1860 ('**IPC**') and Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO**').

2. The case of the prosecution is that a complaint was made by the mother of the victim alleging that on 5th October, 2020, at around 07:00 a.m., she alongwith her husband, an auto rickshaw driver and his friend i.e. Applicant herein went out in a rickshaw. Her four minor children ranging from 4 to 12 years of age were in the house. The First Informant stated that she received a call her neighbours son namely Sunny, informing her that her youngest daughter aged 4 and half years was being sexually exploited by the Applicant. The mother rushed home and enquired with her daughter. Her daughter narrated her ordeal and said that the Applicant had returned and had sent her brother out to buy chocolates and had sexually exploit her at home. The minor daughter also confided in her mother that this was a regular phenomena and the Applicant has done this a number of times earlier. The first informant then made a complaint to the police and the FIR was registered.

3. Ms. Shahu, learned counsel for the Applicant submits that medical report of the examination of the minor child does not reveal any injury to her private parts. She further submits that the medical doctor recorded that there was no bleeding from her private part. She further submits that Applicant is in custody from 5th October, 2020, and till date the trial is not concluded. She also submits that while rejecting the Applicant's bail application, the trial court has mentioned a video recording made by said Sunny and has relied on the same. She, however states that the Applicant is not aware of any such recording and the same was not given to him alongwith the chargesheet. She thus, submits that there being no evidence of an injury to the private part of the victim, the Applicant be released on bail.

4. Per contra, Ms.Tidke, learned APP representing the State submits that the victim was 4 and ½ year old and the Applicant was 30 year old. The Applicant was a friend of victim's father, as such, had a fiduciary relationship with the

minor victim. She has drawn to my attention the statement of the mother narrating the ordeal faced by her daughter. She has also drawn to my attention the medical report as well as the statement of witnesses including the said boy, Sunny, who alerted the First Informant – mother. She further drew my attention to the paragraph No.7 of the order dated 21st April, 2022, passed by the Sessions Court rejecting the Application of the Applicant for grant of bail whereby the trial court has placed reliance on a video recording made by Sunny, capturing the entire incident. Sunny had recorded the act from a peep hole in the curtain of the window of the victim's house. She also placed on record the statement of the victim recorded under Section 164 of the Cr.PC. She thus submits that this is not a fit case for grant of bail and the same may be rejected.

5. Ms.Cheema, learned Advocate appointed from the legal aid panel to represent Respondent No.2 / complainant has also brought to my notice the statement of one Ms.Soufiya

Aarif Khan as well as Sunny affirming the video being taken by Sunny. She thus, supports the contention of Ms.Tidke and also prays to reject the bail application.

6. I have heard learned counsels for the respective parties and perused the record of the case with their assistance.

7. At the very outset, the facts in the complaint made by the minor victim's mother are consistent with the statement recorded of the minor under Section 164 of Cr. PC. The Trial Court placed reliance of the video recording taken by Sunny through the peep hole of the window curtain. I have perused the statement of said Sunny. He has clearly stated that when he saw the Applicant exploiting the victim, he immediately alerted the First Informant – mother and on her request, shot the video through the peephole, from behind the curtain in the victim's house. Another neighbour called Soufiya Aarif Khan, also corroborated the statement of Sunny recording the said video. It is pertinent to note that the

allegation is that of sexual assault inasmuch as the Applicant forced the victim to have oral sex with him. In that view of the matter, there is no chance of any injury to the private part of the Applicant.

8. All the statements of witnesses are consistent with each other. Admittedly, charges are framed but the witnesses have not yet been examined. The Applicant has suffered 5 years of incarceration. However, while every person has a fundamental right to liberty and expeditious trial, this right is not absolute and has to be balanced with the larger interest of justice, public order with protection of victims, particular when the victims are minor. The POCSO Act itself represents its legislative intent to provide stringent protection to children from sexual offences. The trauma suffered by a minor victim in sexual offences is immense and long lasting. The Applicant is a friend of victim's father and as such the victim and other witnesses are likely to be vulnerable to the intimidation and dominant position of the Applicant. In this view of the matter,

I am not inclined to release the Applicant on bail. This is not a fit case for grant of bail.

9. In view of the above observations, Bail Application is rejected.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

11. Since the Applicant is in custody from 2020, the Trial Court is requested to expedite the trial.

(DR. NEELA GOKHALE, J)