

VRJ

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

BAIL APPLICATION NO.2689 OF 2024

VAIBHAV
RAMESH
JADHAV

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Vaibhav Vitthal Kamble

... Applicant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr. Wasim N. Samlewale for the applicant.

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

Ms. Mallika N. Sharma for respondent No.2.

Mr. Sunil Jadhav, Tilak Nagar Police Station, Mumbai.

CORAM : AMIT BORKAR, J.

DATED : JUNE 13, 2025

P.C.:

1. This is a bail application filed under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks bail in connection with FIR No. 74 of 2024 registered at Tilak Nagar Police Station. He is accused of offences under Sections 354 (Assault or criminal force to woman with intent to outrage her modesty) and 376 (Rape) of the Indian Penal Code, 1860, and Sections 4 (Penetrative Sexual Assault), 6 (Aggravated Penetrative Sexual Assault), 8 (Sexual Assault), and 12 (Sexual Harassment) of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The prosecution alleges that on 14th February 2024, between 2:30 PM and 3:30 PM, the applicant took the victim, a 4-year-old girl, to a lane near her house. There, he is accused of showing her pornographic videos on his mobile phone, removing her undergarments, and touching her private parts. The victim told her elder sister about this incident, who then informed their mother. The mother lodged the police report (FIR) on the same day.

3. The applicant was arrested on 15th February 2024. He filed a bail application before the Special POCSO Court. The Special Judge rejected his bail plea. Therefore, the applicant has now filed this bail application before this Court.

4. The applicant's lawyer argued that looking at all the evidence, the serious offences under Sections 4 and 6 of the POCSO Act (which involve penetration) are not made out against the applicant. Even if the less severe offences under Sections 8 (Sexual Assault) and 12 (Sexual Harassment) of the POCSO Act might apply, the specific allegation of touching the private parts lacks supporting evidence. The applicant is 26 years old and has no past criminal record. He has been in jail since his arrest on 15th February 2024 (over 15 months). The maximum punishment even for the offence under Section 10 of POCSO (Aggravated Sexual Assault) is 7 years imprisonment. The trial has not even started properly as charges have not been framed against him yet. Given this delay, it is unlikely the trial will finish soon.

5. The APP and the lawyer appointed for the victim strongly opposed the bail. They argued that the allegations against the applicant are very serious, especially considering the victim is only 4 years old. Therefore, the applicant should not be granted bail.

6. I have carefully examined the charge sheet. I fully recognize that the allegations are extremely serious and the victim is a very young child of 4 years. However, based on the material presented at this stage (*prima facie*), the specific actions alleged against the applicant do not appear to meet the requirements for the most severe offences under Section 4 (Penetrative Sexual Assault) of the POCSO Act.

7. While the allegations under Sections 8/12 POCSO (touching private parts) are indeed grave, the applicant has already been in jail for more than 15 months. The trial has not progressed significantly – charges haven't even been framed. It is very unlikely the trial will conclude in the foreseeable future. Keeping the applicant in jail for such a prolonged period without the trial concluding violates his fundamental right to life and personal liberty under Article 21 of the Constitution of India. His continued incarceration at this stage seems unnecessary.

8. Therefore, considering the period already spent in jail, the stage of the trial, and the unlikelihood of its speedy conclusion, I find it appropriate to grant bail to the applicant.

9. Accordingly, the applicant is ordered to be released on bail upon executing a Personal Bond of Rs. 25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties for the

same amount, subject to the following strict conditions:

- (a) The applicant shall not contact the victim or her family members in any way, directly or indirectly.
- (b) The applicant shall not enter the area where the victim lives, except to report to the concerned police station as required.
- (c) The applicant shall fully cooperate with the prosecution and must attend all court hearings regularly without fail.
- (d) The applicant shall not tamper with any evidence or try to influence any witness in the case.
- (e) The applicant must provide his current home address to the court and inform the court immediately if he changes his address.
- (f) The applicant shall not commit any crime while out on bail. If he does, his bail can be cancelled.
- (g) The applicant must report to the concerned Police Station on the first Monday of every month between 10:00 AM and 12:00 Noon, until the court orders otherwise.

10. This bail application is disposed of according to the terms mentioned above.

(AMIT BORKAR, J.)