

Shabnoor

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

BAIL APPLICATION NO. 2977 OF 2024

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Raju Dhansingh Rathod	... Applicant
V/s.	
State of Maharashtra & Anr.	... Respondents

Mr. Dilip Shinde a/w Amol Doshinge for the Applicant.

Mrs. Rajashree Newton APP for State – respondent No.1.

Mr. Gaurav Sharma for respondent No.2. (appointed Advocate through Legal Aid).

Mr. S. R. Sakpal, API, Kongaon Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : AUGUST 8, 2025

P.C.:

1. The present application is filed under Section 439 of the Code of Criminal Procedure, 1973, wherein the applicant seeks his release on regular bail in connection with Crime Register No.11 of 2020 registered with Kongaon Police Station, District Thane. The applicant is facing allegations for commission of serious offences punishable under Sections 376(2)(n), 366, 366-A, and 326-A of the Indian Penal Code, 1860, as well as Sections 4, 6, 8, 12, and 17 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. As per the prosecution case, on 14 January 2020, the minor daughter of the first informant left the house and did not return by night. Despite all sincere efforts by the informant and his family members, she could not be traced. Ultimately, on the following day, i.e., 15 January 2020, the informant approached the Kongaon Police Station and lodged a report regarding her missing status.

3. During the course of investigation, the police succeeded in tracing the minor girl. On further inquiry, it came to light that the applicant, along with a co-accused, had allegedly kidnapped the minor girl and subjected her to repeated sexual assault against her will. The allegations further state that the applicant and the co-accused later threw acid on her, which resulted in severe injuries. The allegations against the applicant, therefore, include both physical and sexual violence, and are of a particularly heinous nature.

4. The learned Advocate appearing on behalf of the applicant submitted that the applicant has been in custody since 25 February 2020. It is pointed out that although a considerable period has passed since the applicant's arrest, charges have not yet been framed. It is further contended that the prosecution has listed 34 witnesses to be examined, and that the trial has not begun till date. In these circumstances, it is argued that further detention of the applicant will amount to prolonged pre-trial incarceration, and therefore, he deserves to be released on bail, subject to appropriate conditions.

5. Per contra, the learned APP as well as the learned advocate appointed to represent the victim have strongly opposed the bail application. It is argued that the offences alleged against the applicant are grave and shocking to the conscience of society. The prosecution contends that the victim was kidnapped and sexually assaulted, and that the applicant, in conspiracy with Accused No.4, subjected her to an acid attack. Though the post-mortem report cites the cause of death as lung infection, the prosecution highlights that the said acid attack was carried out merely six months prior to her death. It is argued that the attack may have been a contributing factor to her eventual demise. In view of these serious allegations, it is submitted that no leniency be shown and that the bail application deserves to be rejected.

6. I have considered the nature of the allegations, the stage of the proceedings, and the material placed on record. It is not in dispute that the applicant has been in custody since 25 February 2020, which amounts to more than five years of pre-trial incarceration. It is also an admitted position that charges are yet to be framed, and no material progress has been made in conducting the trial despite the passage of considerable time.

7. The prosecution has cited as many as 34 witnesses, and given the pace at which the matter has proceeded, there appears to be no likelihood of the trial commencing or concluding in the near future. Prolonged detention of an undertrial, especially without any effective progress in trial, results in denial of the fundamental right to speedy trial, guaranteed under Article 21 of the Constitution of India.

8. It is true that the allegations made against the applicant are grave and serious. However, the Court is also duty-bound to weigh the same against the settled principle that bail is the rule and jail is the exception, particularly when the trial is delayed and the accused has already undergone substantial incarceration.

9. The death of the victim is indeed unfortunate. However, the postmortem report, as brought on record, does not attribute the cause of death directly to the acid attack, but instead states that the cause was a lung infection. Though the prosecution claims a nexus between the acid attack and the eventual death, this is a matter that would require full-fledged trial and medical evidence to establish causation. At this stage, such causation cannot be presumed or treated as conclusive.

10. Furthermore, it is not the case of the prosecution that the applicant had absconded or attempted to tamper with evidence during the investigation. There is no material to suggest that he poses a flight risk or that he would misuse the liberty if released on appropriate conditions.

11. It is also relevant to note that the co-accused in the case have either been granted bail or their applications are under consideration. The principle of parity, though not absolute, must be considered where the roles attributed are overlapping and the nature of evidence is common.

12. In light of the above facts and circumstances, this Court is of the opinion that continued incarceration of the applicant will serve no useful purpose and would, in fact, amount to punitive detention

prior to conviction, which the criminal justice system does not approve of.

13. Accordingly, the applicant deserves to be enlarged on bail, subject to stringent conditions to ensure his presence at trial and to prevent any misuse of liberty.

14. Hence, the following order :

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 11 of 2020 registered with Kongaon Police Station, District Thane, for offences punishable under Sections 376(2)(n), 366, 366-A, 326-A of IPC, Sections 4, 6, 8, 12 and 17 of the POCSO Act, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid grounds supported by sufficient cause.

(c) The applicant shall report to the Kongaon Police Station, District Thane on the first Monday of every month between 10.00 a.m. and 12.00 noon, until further orders.

(d) The applicant shall not leave the territorial jurisdiction of the Trial Court without its prior written permission.

(e) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

15. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)