

Shabnoor

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

BAIL APPLICATION NO.3019 OF 2024

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Prem Manu Rathod

... Applicant

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. Aditya Andhorikar i/b Mr. Manojkumar S. Dubey
for the Applicant.

Mr. Ravi Uikey for respondent No.2.

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

CORAM : AMIT BORKAR, J.

DATED : JUNE 11, 2025

P.C.:

1. This is an application for bail filed under Section 439 of the Code of Criminal Procedure, 1973, by the applicant in connection with Crime Register No. I-199 of 2023 registered at Turbhe MIDC Police Station. The applicant is facing prosecution for serious offences punishable under Sections 376(2) and 506 of the Indian Penal Code, 1860, as well as Sections 5(j)(2) and 6 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”).

2. As per the prosecution case, the victim was about 15 years and 7 months old at the time of the first alleged incident. It is alleged that she initially consented to physical relations with the applicant. Later, when she again visited the applicant’s residence

with the intent of seeing his child, the applicant again had sexual relations with her, which allegedly led to her pregnancy. When the victim, along with her mother, visited a gynaecologist, it was confirmed that she was pregnant, following which the complaint was registered. The applicant was arrested on 23rd May 2023. The Sessions Court has rejected his earlier application for bail. Hence, the present application has been filed before this Court.

3. Learned Advocate appearing for the applicant has drawn attention to the statement of the victim, which admits that on the date of the alleged incident she was 15 years and 7 months of age. It is submitted that despite allegations of repeated sexual acts, the victim did not raise any alarm or complaint immediately, which raises doubt regarding the credibility of the allegations. It is further submitted that the victim allegedly went to see the applicant's child, but in fact, the applicant does not have a child residing with him, which casts further doubt on the version of the prosecution. It is also submitted that the applicant has been in custody since 23rd May 2023 and that the charges are yet to be framed. Thus, there is no likelihood of early conclusion of trial, and prolonged detention would amount to pre-trial punishment. On these grounds, it is prayed that the applicant be released on bail with suitable conditions.

4. On the other hand, the learned APP, as well as the learned Advocate appointed to represent the victim, have strongly opposed the application. They submit that the offences alleged against the applicant are of grave nature, and involve a minor victim. As per the provisions of the POCSO Act, the consent of a child below the

age of 18 years is immaterial. It is pointed out that the victim became pregnant, and the medical records corroborate her version. Given the seriousness of the charges, and considering the vulnerability of the victim, it is contended that this is not a fit case for granting bail. They have also expressed apprehension that if the applicant is released on bail, he may attempt to influence the victim or tamper with the evidence.

5. I have carefully perused the chargesheet placed on record, including the statement of the victim and the other supporting material. As per the prosecution, the first incident is stated to have taken place in April 2023. It is alleged that the applicant committed forcible sexual intercourse with the victim. Subsequently, the victim began experiencing physical discomfort, which prompted her family to take her to a gynaecologist. Upon medical examination, it was revealed that the victim was pregnant. Based on this revelation, the First Information Report (FIR) was registered. It is undisputed that the victim was around 15 years and 7 months of age at the time of the alleged incident, which brings the matter within the purview of aggravated penetrative sexual assault under Section 5(j)(2) of the POCSO Act, where pregnancy is caused as a result of the offence.

6. It is also not in dispute that the applicant was arrested on 23rd May 2023 and has been in custody since then. The charges are yet to be framed, and there is no material to indicate that the trial is likely to commence or conclude in the near future. The investigation is over, and the chargesheet has already been filed. Therefore, the applicant's further incarceration before the

commencement of trial would amount to pre-trial detention for an indefinite period, which is not warranted in the facts of this case.

7. Upon overall consideration of the circumstances—particularly the age of the victim, the nature of the allegations, the stage of the case, and the fact that the applicant has remained in custody for over two years without the trial even commencing—it would not be just to continue his detention indefinitely. At the same time, considering the sensitivity and seriousness of the charges and the interest of the victim's safety, the release of the applicant on bail must be made subject to stringent conditions to ensure that he does not misuse the liberty or attempt to influence the victim or witnesses.

8. In view of the above discussion, the following order is passed:

(a) The Bail Application is allowed.

(b) The applicant, *Prem Manu Rathod*, shall be released on bail in connection with Crime Register No. I-191 of 2023 registered with Turbhe MIDC Police Station, upon his furnishing a personal bond in the sum of ₹25,000/- (Rupees Twenty-Five Thousand only), with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court.

(c) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly, through any means including phone, messaging, or third parties.

(d) The applicant shall not enter the locality where the victim resides and shall maintain a minimum distance of 500 meters from the place of the alleged incident, until further orders.

(e) The applicant shall remain present on all dates fixed by the Trial Court and shall cooperate with the trial proceedings

(f) The applicant shall not tamper with the prosecution evidence or attempt to influence any witnesses in any manner whatsoever.

(g) The applicant shall furnish his current residential address and mobile contact number to the Trial Court at the time of release and shall inform the Trial Court in writing about any change in address or contact number during the pendency of the trial.

(h) The applicant shall not involve himself in any criminal offence during the pendency of the trial. In the event of any breach of these conditions, the prosecution shall be at liberty to move for cancellation of bail.

9. The Bail Application is accordingly disposed of.

(AMIT BORKAR, J.)