

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

CRIMINAL BAIL APPLICATION NO. 3029 OF 2024

Ganesh Ishwar More

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Prashant Hagare, learned Advocate for the Applicant.

Dr. Ashvini A. Takalkar, learned A.P.P. for the State/Respondent.

Mr. Bhuvan Singh (Appointed from Legal-aid Panel), learned Advocate for Respondent No. 2.

PI Mr. attached to Police Station is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 15th JULY 2025.

P.C. :

1. Heard Mr. Prashant Hagare, learned Advocate for the Applicant, Dr. Ashvini Takalkar, learned A.P.P. for the State/Respondent and Mr. Bhuvan Singh, learned Advocate for Respondent No. 2.

2. 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. 178 of 2022 registered with Sahakarnagar Police Station, Pune City for the offences punishable under Sections 376(2)(n) and 376(3) of the Indian Penal Code, 1860 ("IPC" for short) and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short).

3. Mr. Prashant Hagare, learned Advocate for the Applicant submits that the abovesaid crime is now registered as Special (POCSO) Case No. 772 of 2022 and is pending on the file of learned Additional Sessions Judge-13, Pune.

4. Case of the prosecution is that the mother of victim/prosecutrix (a girl of 14 years old at the time of incident), filed a complaint claiming that the Applicant took away the victim/prosecutrix on his motor-cycle, established physical relationship with the victim/prosecutrix against her will under the pretext of marrying with her and thereafter refused to marry with her.

5. Applicant was arrested on 19th August 2022 and since then he is in jail. Criminal Bail Application at Exhibit-4 in Special (POCSO) Case No. 772 of 2022 filed by the Applicant was rejected by the learned Additional Sessions Judge,-13 Pune by order dated 6th December 2022. Criminal Bail Application No. 3479 of 2022 filed by the Applicant before this Court was disposed on dated 7th February 2023 by passing the following order :-

“Considering the facts and circumstances of the case, the Trial Court shall endeavour to conclude the trial as early as possible. In case the trial is not concluded within a period of one year, the Applicant is at liberty to file a fresh Bail Application before the Trial Court. The Application is disposed of in aforesaid terms.”

6. Bail Application at Exhibit-14 in Special (POCSO) Case No. 772 of 2022 filed by the Applicant was dismissed by the learned Additional Sessions Judge-13, Pune by order dated 3rd April 2024.

7. Mr. Prashant Hagare, learned Advocate for the Applicant submits that this Court has specifically granted liberty to the Applicant to file a fresh Bail Application before the learned Trial Court in the event the trial is not concluded within one year from 7th February 2023. He submits that the trial was not concluded within a period of one year and as such, the Applicant filed the Bail Application at Exhibit-14. He submits that the Applicant is in jail since 19th August 2022 and that was the reason, the learned Trial Court while disposing of Criminal Bail Application No. 3479 of 2022, made the observations in its order dated 7th February 2023. He submits that till date 3 out of 23 prosecution witnesses, listed by the prosecution, have been examined. He submits that the trial is proceeding at a slow pace and the conclusion of trial would take substantial time. He submits that the Applicant does not have any criminal antecedent. He therefore submits that as the Applicant is entitled to enforce his right of speedy trial, which granted to him, was recognized by this Court and as such, observations in the order dated 7th February 2023 were made.

8. Dr. Ashvini A. Takalkar, learned A.P.P. for the State/Respondent submits that though the trial has not concluded in Special (POCSO) Case No. 772 of 2022, however, the same would not *ipso facto* entitle the Applicant to seek bail. She submits that the order dated 7th February 2023 merely grants liberty to file a fresh Application, if the trial is not concluded within a period of one year. She submits that the offence charged against the Applicant is serious in nature involving a minor girl. As such, the request made by the Applicant should not be considered.

9. Mr. Bhuvan Singh, learned Advocate for Respondent No. 2 adopts the arguments of Dr. Ashvini Takalkar, learned A.P.P. for the State/Respondent. In addition, he states that the offences under POCSO Act are serious matters and therefore, the request made by the Applicant be rejected.

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

11. This Court by its order dated 7th February 2023 passed in Criminal Bail Application No. 3479 of 2022 had granted liberty to the Applicant to file a fresh Bail Application before the learned Trial Court in the event trial is not concluded within one week. Trial though is proceeding, it appears the progress is relatively slow. Dr. Ashvini Takalkar, learned A.P.P., states that the prosecution has examined 3 witnesses out of 23 prosecution witnesses listed. Victim/prosecutrix has been examined in the said proceedings.

12. Trial in Special (POCSO) Case No. 772 of 2022 is proceeding at a slow pace. The victim/prosecutrix and Respondent No. 2 having been examined, Mr. Prashant Hagare, learned Advocate would be justified in making a request for bail, by invoking the liberty granted by this Court vide order dated 7th February 2023 passed in Criminal Bail Application No. 3479 of 2022. He further submits that the Applicant does not have any criminal antecedent.

13. Considering the nature of allegations and the material placed on record, which includes statements of 2 of the prosecution witnesses, which are at page nos. 66 and 72 of the paper-book, this

is not a fit case to continue incarceration of the Applicant pending the trial.

14. In view of the above, the Applicant is entitled for bail. Hence, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 178 of 2022 registered with Sahakarnagar Police Station, Pune City for the offences punishable under Sections 376(2)(n) and 376(3) of the IPC and Sections 4, 6 and 8 of the POCSO Act on executing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty-five Thousand Only) with one or two sureties in the like amount to the satisfaction of the Additional Sessions Judge-13, Pune.
- 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 him from disclosing such facts to the Court or to any police officer.
- c. Applicant shall not tamper with the prosecution witnesses and evidence in any manner.
- d. Applicant shall co-operate in the conduct of the trial and shall regularly attend the hearing of Special (POCSO) Case No. 772 of 2022 pending on the file of Additional Sessions Judge-13, Pune, on each and every

date, unless exempted from appearance.

- e. Applicant upon his release, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Sahakarnagar Police Station, Pune City and shall keep the same updated, in case of any change thereto.
- f. Applicant shall not contact or attempt to contact the victim or Respondent No. 2 or any of the family member of the victim or any witness in the present crime.

15. Criminal Bail Application No. 3029 of 2024 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

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by GITALAXMI
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2025.07.15
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