

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

CRIMINAL BAIL APPLICATION NO. 3115 OF 2024

Nirajkumar Premlal Gupta. ... Applicant.
Vs.
The State of Maharashtra & Anr. ... Respondents.

Mr. Ujjwal Gandhi, Advocate for the Applicant.
Mr. Harshvardhan Suryawanshi, Advocate appointed for
Respondent No. 2 through legal aid.
Mrs. Anamika Malhotra, APP for Respondent/State.
API Sarika Janjurne, Panvel City Police Station, Navi Mumbai.

**CORAM : ASHWIN D.BHOBE, J.
DATE : 16th JUNE, 2025.**

P.C. :

1. Heard Mr. Ujjwal Gandhi, learned Advocate for the Applicant, Mrs. Anamika Malhotra, learned APP for State and Mr. Harshvardhan Suryawanshi, learned Advocate appointed for Respondent No. 2.
2. By this Application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), the Applicant seeks bail in Crime No. 286 of 2019 registered with Panvel Police Station, for offence punishable under Section 363, 377 of the

Indian Penal Code and Sections 4 of the Protection of Children for Sexual Offences Act, 2005 (for short “POCSO Act”). The said crime is now registered as Special Case No. 62 of 2023 and is pending before the learned Additional Sessions Judge(Under POCSO), Pune. The said Crime is registered as Special (POCSO) Case No. 395 of 2020 and is allotted to the learned Additional Sessions Judge, Panvel (under POCSO).

3. Case of the prosecution is that the Applicant has sexually assaulted Respondent No. 2 a minor boy, as such the offence under section 377 of the Indian Penal Code read with Section 4 of the POCSO Act.

4. Applicant was arrested on 27th September, 2019 and since then he is in jail. The bail application at Exh. 5 filed by the Applicant in Special (POCSO) Case No. 395 of 2020 was rejected by the learned Additional Sessions Judge, Panvel on 21st September, 2022.

5. Mr. Ujjwal Gandhi, learned Advocate for the Applicant submits that he has instructions from the Applicant not to press

the merits of the matter and to press into service the right to have speedy trial. He submits that the crime is registered in the year 2019. However, till date charge is not framed. He submits that looking at the pendency before the trial Court, there is no possibility of the trial commencing and/or concluding in the near future. He therefore, submits that the Applicant who is incarcerated since the year 2019 would be entitled to be released on bail on the ground of long incarceration in jail. He relies on the judgments in support of his submission of long incarceration in the case of *Vikas Chandrakant Patil v/s. State of Maharashtra*¹ and *Niklesh Prakash Patil v/s. State of Maharashtra*².

6. Learned APP submits that the offence is serious as a minor boy was physically and sexually assaulted by the Applicant. She submits that the learned Trial Court has from paragraph Nos. 20 to 22 given the reasons for the charge not being framed. The reasons recorded by the Trial Court are pendency of bail applications, civil cases, criminal cases and direction matters. She

1 Criminal Bail Application No. 1963 of 2025 dated 9th May, 2025.

2 Criminal Bail Application No. 1208 of 2025 dated 8th May, 2025.

therefore, submits that the charge is not framed for reasons beyond control of the learned Sessions Court. She however, does not dispute that the charge is not framed and the Applicant is in custody since 26th September, 2019.

7. Mr. Harshvardhan Suryawanshi, learned Advocate for the Respondent No. 2 has opposed the Bail Application stating that the act of the Applicant is heinous.

8. I have perused the record with the able assistance of the learned Advocates and learned APP.

9. Record indicates that the Applicant is in jail since 27th September, 2019 awaiting trial. Indisputably, charge is not framed till date. The learned Advocate for the Applicant states that the Applicant does not have any criminal antecedents. The learned APP submits that nothing has come on record indicating Applicant having any criminal antecedents.

10. Considering that the Applicant is incarcerated since September, 2019, the Applicant is justified in pressing into service his right to be enlarged on bail as he cannot continue to be

incarcerated as an under-trial prisoner, indefinitely. It is almost 5 years and 8 months that the Applicant has been incarcerated. It is only on this ground the Bail Application is entertained.

11. In view of the above, the Criminal Bail Application is allowed on the following conditions:

(a) The Applicant be released on bail in Crime No. 286 of 2019 registered with Panvel Police Station, on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount to the satisfaction of the learned Additional Sessions Judge, Panvel.

(b) The Applicant shall attend the trial in Special (POCSO) Case No. 395 OF 2020 pending before the learned Additional Sessions Judge, Panvel (under POCSO), on each date of hearing, unless exempted.

(c) The Applicant shall not influence or threaten the witnesses or tamper the evidence.

(d) The Applicant shall not leave the State of Maharashtra without prior permission from the learned Additional Sessions

Judge, Panvel (under POCSO).

(e) The Applicant shall supply permanent residential address and contact details to the Investigating Officer within 3 days of his release from jail.

(f) The Applicant shall report to the Investigating Officer, Panvel Police Station on 3rd and 15th of each month from 10 a.m. to 1 p.m. till the framing of charge in Special (POCSO) Case No. 395 of 2020 pending before the learned Additional Sessions Judge, Panvel (under POCSO).

12. The Criminal Bail Application No. 3115 of 2024 is disposed of.

[ASHWIN D.BHOBE, J.]