

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

CRIMINAL BAIL APPLICATION NO. 3436 OF 2024

Atish @ Bala Atmaram Chavan ... Applicant.
Vs.
The State of Maharashtra ... Respondent.

Mr. Shailesh Kharat a/w Mr. Onkar Chaudhari, Advocate for the Applicant.

Mr. Omkar A. Mane, Advocate for Respondent No.2 (Appointed Advocate through Legal Aid Panel)

Dr. A.A. Takalkar, APP for Respondent/State.

Mr. A. M. Rathod – PSI, Dehuroad Police Station, Pimpri Chinchwad.

CORAM : ASHWIN D. BHOBE, J.

DATE : 16th JULY, 2025.

P.C. :

1. Heard Mr. Shailesh Kharat, learned Advocate for the Applicant, Mr. Omkar Mane, learned Advocate for the Respondent No.2 and Dr. A. A.Takalkar, learned, leaned APP for the Respondent-State.

2. By the present Application, filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short “BNSS”), the Applicant who is accused in Crime No. 129 of 2021 registered at Dehuroad Police Station, District Pune for the offence punishable under Sections- 376-A, 376-B of the Indian Penal Code (for short ‘IPC’) and under Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 is before this Court, seeking regular bail. Said crime is registered as Special Case No. 351 of 2021 and is pending before the Court of the Sessions Judge (Special Court), at Pune.

3. Allegations against the Applicant (Accused) in the present crime is of sexually assaulting the victim that is the daughter of Respondent No.2.

4. Applicant was arrested on 16th March, 2021. Since then his in jail. Bail Application at Exhibit-11 filed by the Applicant in Special Case No.351 of 2021 was rejected by the Additional Sessions Judge, Pune.

5. On 10th February, 2025, this Court had passed the following order :-

The learned APP, on instructions, submits that the trial has commenced and the prosecution would endeavour to conclude it's evidence within a period of three months. In that view of matter, list the application on 05.05.2025.

6. Mr. Shailesh Kharat, learned Advocate for the Applicant, submits that the Applicant seeks Bail on the ground of long incarceration and denial of Applicant's right of speedy trial. He submits that based on the said contention, this Court had made the observations in its order dated 10th February, 2025. He submits that till date though the Prosecutrix / Victim has been examined, the trial is not concluded and the same is proceeding at a very slow pace. He submits that out of the 10 prosecution witnesses listed, till date only presently 5 witnesses are examined. He submits that there is no possibility of the trial concluding in the near future.

7. Dr. A. A.Takalkar, learned APP for the State submits that till date the prosecution has examined five witnesses and the prosecution intends to examine at least 4 more witnesses.

8. Mr. Omkar Mane, learned Advocate for Respondent No.2, submits that the Respondent No.2 has apprehensions of the Applicant interfering with the family of the Respondent No.2, if the Applicant is released on bail.

9. Perused the record with the assistance of the learned Advocates.

10. This Court had differed the present Application so as to afford an opportunity to the prosecution, to conclude the trial in Special Case No.351 of 2021, as evident from the order dated 10th February, 2025. Said observation were apparently made, considering the Applicant being in jail for the last more 4 years. As submitted by the parties, the trial in Special Case No. 351 of 2021 has not concluded and the prosecution intends to examine further witnesses. In such circumstances, Mr. Kharat would be justified in pressing into service the right of the Applicant to speedy trial. Applicant cannot continue to be incarcerated as an under trial, indefinitely, in the present case for 4 years and 4 months. As submitted by Mr. Kharat the trial is likely to prolong.

11. Mr. Kharat, learned Advocate submits that the Applicant does not have any criminal antecedents.

12. Apprehensions expressed by the learned Advocate for the Respondent No.2 can be taken care of by imposing stringent conditions on the Applicant, more so when the victim and the Respondent No.2 are already examined in Special Case No.351 of 2021.

13. Mr. Shailesh Kharat, learned Advocate for the Applicant on instructions from the Applicant states that if indulgence is shown to the Applicant, the Applicant shall not enter the territorial jurisdiction of Dehuroad Police Station till the conclusion of the trial in Special Case No.351 of 2021. Statement is accepted.

14. In view of the above, the Bail Application is allowed on the following terms :-

(a) Applicant be released on bail in Crime No. 129 of 2021 registered with Dehuroad Police Station, Pune upon 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 Additional Sessions Judge, Pune.

(b) Applicant shall not contact or attempt to contact the Respondent No.2, the victim or any of the prosecution witnesses.

(c) Applicant shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence.

(d) Applicant upon release within 3 days shall furnish his residential addresses with proof and contact details to the Trial Court and Investigating Officer, Dehuroad Police Station, Dist.

Pune.

(e) Applicant shall appear and attend all dates of hearing before the Additional Sessions Judge, Pune in Special Case No.351 of 2021, unless exempted by the Court.

(f) Applicant shall not enter the territorial jurisdiction of Dehuroad Police Station till the conclusion of Trial in Special Case No.351 of 2021.

15. Criminal Bail Application No. 3436 of 2024 disposed of in the abovesaid terms.

(ASHWIN D. BHOBE, J.)

GAYATRI
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SHIMPI

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by GAYATRI
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