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

BAIL APPLICATION NO.3477 OF 2024

Ashok Digamber Rathod	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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GANESH
KULKARNI

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Mr. Nitin Sejpal with Mr. Siddharth Gharat for the applicant.

Mrs. Rajashree V. Newton, APP for respondent No.1-State.

Ms. Deepali Bagla for respondent No.2-victim.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 29, 2025

P.C.:

1. Through this bail application filed under Section 439 of the Criminal Procedure Code, 1973 (hereinafter referred to as "Cr.P.C."), the applicant is seeking regular bail in Crime Register No.25 of 2024 registered at Mahad Police Station. The case pertains to offences punishable under Section 377 of the Indian Penal Code, 1860 (hereinafter referred to as "IPC") and Sections 4, 5(M), 6, 7, 8, 12, and 18 of the Protection of Children from Sexual Offences Act, 2012, along with Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. As per the prosecution case, the complainant resides at Jite, Mahad with her family comprising her husband and two sons - Nilesh aged 15 years and the victim boy aged 9 years. The

applicant is a neighbour and is well known to the complainant's family. On 29th February 2024, the complainant's husband showed her a video clip of 2½ minutes duration. In the said video, the applicant was seen pushing the backside of the complainant's son 5-6 times in a plot of land adjacent to the house of one Dilnawaz. The complainant and her husband discussed this video with their relatives. Thereafter, a meeting of the residents of village Jite was called. In that meeting, out of anger and resentment, the complainant threw her slipper at the face of the applicant. Subsequently, the FIR was lodged.

3. The learned Advocate appearing for the applicant has submitted that the allegations made in the FIR are vague and general in nature. The allegations regarding commission of sexual intercourse with the victim boy are vague and not believable. The medical examination shows that there was no injury on the private part of the victim boy, only redness was observed. The doctor has opined that there was an attempt of penetrative intercourse. The FIR has been lodged due to a dispute between the applicant and the complainant's family members. The applicant was arrested on 4th March 2024 and therefore, deserves to be released on bail.

4. On the other hand, the learned Additional Public Prosecutor and the learned Advocate appointed to represent the victim have opposed the bail application. They have submitted that the applicant was 38 years old at the time of the alleged incident, whereas the victim was a 9-year-old minor child with whom the applicant committed unnatural sexual offence. The CCTV footage clearly establishes that the applicant has committed the alleged

offence. Further, the medical report shows that the victim was having injuries on his private part. They have further submitted that the applicant and the witnesses reside in the same locality and if the applicant is released on bail, he may pressurize the witnesses and tamper with the evidence. They have drawn attention to the order passed by this Court in Bail Application No.879 of 2025, wherein this Court has observed that the POCSO Act is a special legislation enacted for the protection of children from sexual offences. Therefore, they have submitted that the bail application deserves to be rejected.

5. I have carefully considered the submissions made by the learned Advocate for the applicant, the learned Additional Public Prosecutor, and the learned Advocate representing the victim. I have also perused the case diary and the material placed on record.

6. The applicant has been charged with serious offences under Section 377 of the IPC and various provisions of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as "POCSO Act"). The victim in this case is a 9-year-old minor child, whereas the applicant was 38 years old at the time of the alleged incident. The allegations are of grave nature involving commission of unnatural sexual offence with a minor child.

7. The POCSO Act is a special legislation enacted by the Parliament with the specific object of providing protection to children from sexual offences and to safeguard their interest at every stage of the judicial process. The Act has been brought into

force to create a child-friendly system for trial of such offences. The offences under the POCSO Act are heinous in nature and require strict approach while considering bail applications.

8. In the present case, the CCTV footage is available on record which, according to the prosecution, clearly shows the commission of the alleged offence by the applicant. The video clip shows the applicant pushing the backside of the victim child 5-6 times. This is a vital piece of evidence against the applicant.

9. The medical examination of the victim child reveals redness on his private part. The doctor has opined that there was attempted penetrative intercourse. Though the learned Advocate for the applicant has argued that there were no injuries, the presence of redness itself is significant and corroborates the allegations made in the FIR. The medical evidence cannot be brushed aside lightly.

10. The contention of the learned Advocate for the applicant that the FIR was lodged due to a dispute between the parties does not inspire confidence. Even if there was some dispute between the families, it cannot be a ground to disbelieve the serious allegations of sexual offence against a minor child. The incident in the village meeting where the complainant threw her slipper at the applicant was a natural reaction of an aggrieved mother who came to know about the sexual assault on her minor son. This cannot be construed as evidence of false implication.

11. The applicant and the witnesses, including the victim and his family members, reside in the same village. If the applicant is

released on bail at this stage, there is a strong likelihood that he may influence, threaten, or pressurize the witnesses. He may also tamper with the evidence, which would seriously prejudice the prosecution case and defeat the ends of justice.

12. The investigation is still in progress and the charge sheet has not yet been filed. At this stage, if the applicant is released on bail, it may hamper the investigation and create difficulties for the investigating agency in collecting evidence and recording statements of witnesses.

13. The applicant has been in custody since 4th March 2024. However, considering the gravity and seriousness of the offences alleged against him, the nature of accusations involving a minor child, the availability of CCTV footage, the medical evidence, and the possibility of tampering with evidence and influencing witnesses, the period of custody alone cannot be a ground to grant bail to the applicant.

14. The Supreme Court in various judgments has held that while considering bail applications in cases under the POCSO Act, the Court must keep in mind the object and purpose of the Act, the age of the victim, the nature of allegations, and the larger interest of the society and the child victim.

15. The POCSO Act is a child-centric legislation which provides for protection of children from sexual assault, sexual harassment, and pornography. The Court held that while considering bail applications in POCSO cases, the Court must be cautious and careful.

16. This Court, in Bail Application No.879 of 2025, has also observed that the POCSO Act is a special legislation enacted to provide protection to children from sexual offences. The principles laid down in that order are equally applicable to the present case.

17. Taking into consideration the totality of the circumstances, the nature and gravity of the offences, the age of the victim child, the availability of CCTV footage and medical evidence, the possibility of the applicant tampering with evidence and influencing witnesses, and the fact that both the applicant and witnesses reside in the same locality, I am of the considered opinion that this is not a fit case for granting bail to the applicant at this stage.

18. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)