

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4259 OF 2024

Sanjay Vishwanath Kathe (In Jail) ...Applicant.

Versus

State of Maharashtra & Anr. ...Respondent.

Mr. Niranjan Bhavake a/w. Ms. Drishti Madhani i/b. Bhavake & Associates,
Advocate for the Applicant.

Ms. M.R. Tidke, APP for the Respondent/State.

Mr. Shailesh S. Kharat i/b. Mr. Pranit Namde, Advocate for Respondent No. 2.

CORAM: ASHWIN D. BHOBE, J.

DATED: 4th SEPTEMBER, 2025.

PC:-

1. Heard Mr. Niranjan Bhavake, learned Advocate for the Applicant and Ms. M.R. Tidke, learned APP for State.

2. By the present Application filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short "BNSS"), the Applicant is seeking regular bail in Crime No. 268 of 2012 registered with Dattawadi Police Station, Dist. Pune for the offences punishable under Section 376, 376(2)(j), 376(AB), 354, 506 of the Indian Penal Code (for short "IPC") and under Sections 4, 5(m), 5(n), 6, 8, 9(m), 9(n), 9(p), 12 of the Protection of Children from Sexual Offences Act (for short "POCSO Act"). Said Crime is registered as Special Case No. 58 of 2023 and is pending before the Court of Additional

Sessions Judge, Pune.

3. Applicant is the sole accused in the present crime. FIR is lodged on a report filed at the instance of Respondent No. 2.

4. Respondent No. 2/Informant alongwith her minor daughter (victim) were residing with the Applicant. Victim is the daughter of Informant from her first marriage with Bipin Mandlik. Applicant is the step-father of the victim. Case of the prosecution is that the daughter of the Informant was sexually abused by the Applicant.

5. Applicant was arrested on 22nd December, 2022. Bail Application at Exh. 14 filed by the Applicant in Special Case No. 58 of 2023 was rejected by the Additional Sessions Judge, Pune on 15th May, 2024.

6. Mr. Bhavake, learned Advocate for the Applicant submits that the Applicant who is the step-father of the victim has been falsely implicated in the present crime. He submits that the allegations made against the Applicant are not substantiated. He submits that the case of the prosecution is not supported by any material on record.

7. Ms. Tidke, learned APP for the State submits that the material on record discloses the Applicant having sexually abused the victim a minor girl. She submits that though the victim in her statement under Section 161 Code of Criminal Procedure, 1973 (for short "Cr. P.C.") had made allegations against the Applicant, however, in her statement recorded under Section 164 of the Cr. P.C., the victim had exonerated the Applicant. She tenders copy of the statement record under section 164 Cr.P.C. dated 12th January, 2023. Same is

taken on record and marked “X” for identification.

8. Mr. Kharat, learned Advocate for the Respondent No. 2 submits that the statement of the victim recorded under section 164 of the Cr. P.C. would indicate that the complaint filed by her was out of a resentment with the Applicant with whom she was residing. He submits that the victim maintains her statement recorded under Section 164 of the Cr. P.C. recorded before the Magistrate.

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

10. Paragraph No. 2 of the statement of the victim recorded under Section 164 of the Cr. P.C. (marked as “X” for identification) reads as follows :

”२. माझे सावत्र वडील संजय काथे हे दारूचे व्यसन करतात व आईशी भांडण करत होते. ते मला आवडत नव्हते म्हणून मी माझे आईला संजय काका माझी छाती दाबतो, व माझे घाणेरडे वागतो असे सांगितले. त्यानंतर माझी आई पोलीस स्टेशनला गेली. माझे सावत्र वडील दारू पिवून आईशी भांडत होते म्हणून मी माझे आईला खोटे सांगितले होते. माझे सावत्र वडिलांनी माझे असे काहीही केले नव्हते.”

11. Aforesaid statement of the victim recorded under Section 164 of the Cr.P.C. does not support the prosecution case against the Applicant. Hence, continuation of the Applicant in jail is not warranted.

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

(a) Applicant be released on bail in Crime No. 268 of 2022 registered with Dattawadi Police Station, Dist. 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 learned Additional Sessions Judge, Pune.

(b) 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 such person from disclosing the facts to Court or any Police Officer. The Applicant shall not tamper with evidence.

(c) Applicant upon release within 3 days shall furnish his residential addresses with proof and contact details to the Investigating Officer, Dattawadi Police Station, Pune.

(d) Applicant shall attend each and every date of hearing in Special Case No. 58 of 2023 before the learned Additional Sessions Judge, Pune, unless exempted.

13. Bail Application No. 4259 of 2024 is allowed and disposed of on the above terms.

(ASHWIN D. BHOBE,J.)