

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

CRIMINAL BAIL APPLICATION NO. 4713 OF 2024

Vikas @ Dhondya Dinkar Sonawane ... Applicant
Vs.
The State of Maharashtra & Anr. ... Respondents

Mr. Ramchandra Wagh i/b Mr. Narayan Rokade a/w Mr. Vikrant Kadam,
Siddharth Godke, Abhang Suryawanshi, Advocate for the Applicant.
Ms. Kanchan Pawar, Advocate for Respondent No.2.
Mr. S. S. Chaudhari, APP for Respondent/State.
Mr. Bhanudas Narke-PSI, Chandwad Police Station, Nashik.

CORAM : ASHWIN D. BHOBE, J.

DATE : 31th JULY, 2025.

P.C. :

1. Heard Mr. Ramchandra Wagh, learned Advocate for the Applicant, Ms. Kanchan Pawar, learned Advocate for Respondent No.2 and Mr. S. S. Chaudhari, learned APP for the Respondent-State.

2. By the present Application, the Applicant is seeking bail in Crime No.507 of 2023 registered with Chandwad Police Station, Nashik for the offences punishable under Sections 363, 366, 376(n)(3) of the Indian Penal Code and under Sections 4 and 8 of the Protection of Children from Sexual Offences Act. (for short "POCSO Act"). Said crime is registered as Special POCSO Case No.10 of 2024 and is pending before the Court of the Additional Sessions Judge, Niphad District Nashik.

3. FIR is lodged at the instance of the Respondent No.2 (mother of the victim girl). Case of the prosecution is that the victim, a minor girl, was taken away from the custody of her parents by the Applicant, a 19-year-old boy. Victim was taken by the Applicant on his motorcycle. Thereafter the victim and the Applicant started residing in a shed erected in the fields. Applicant and victim resided together in the said shed for almost 14 to 15 days. During the said stay, the Applicant had physical relationship with the victim.

4. Applicant was arrested on 20th December, 2023, since then he is in jail. Bail Application at Exhibit-4 filed in Special POCSO Case No. 10 of 2024 was rejected by the learned Additional Sessions Judge, Niphad, on 15th June, 2024.

5. Mr. Ramchandra Wagh, learned Advocate for the Applicant, submits that the Applicant and the victim were in a love relationship. He submits that the Applicant and the victim fled from their respective residences and started living together in the shed for almost 15 days. He submits that it was on the basis of the complaint of the mother of the victim, who was not happy with the said relationship, that the offence came to be registered.

6. Mr. S. S. Chaudhari, learned APP for the State, submits that the victim being a minor, consent of the victim is immaterial. He submits that the victim could not be taken out of the custody of her parents. He submits that the trial has commenced and the same can be directed to be expedited.

7. Ms. Kanchan Pawar, learned Advocate for Respondent No.2, submits that the victim in her 164 statement has stated that she was forcefully taken away by the Applicant. She submits that though the Applicant and the victim were residing together in the shed for 14 to 15 days, said stay cannot be termed to be by consent of the victim. She submits that consent of a minor is of no consequence.

8. I have perused the records with the assistance of the learned Advocates.

9. Material on record, more particularly the statement of the victim recorded by the police on 28th December, 2023, makes a reference to the victim having a love affair with the Applicant. Said statement further refers to the victim traveling with the Applicant on a motorcycle, thereafter residing in a shed erected in the field as husband and wife for a period of almost 14 days. The statement of the victim recorded under Section 164 of Cr. P.C. is inconsistent with the statement made by her under Section 161. At any rate material on record does not indicate the victim having complained of any violent act or any abuse at the hands of the Applicant during her stay with the Applicant.

10. This Court in the case of **Sunil Mahadev Patil Vs. State of Maharashtra**¹, at paragraph No.11 has observed as under:-

Today teenagers are exposed to more sex related issues and lot of material is also available to them to know the sexual relationship between a man and a woman. Because of their impressionable age, girls and boys both may tend to get provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. Sexual urge differs from person to person and

¹ 2015 SCC OnLine Bom 6204

there cannot be any mathematical formula in respect of sexual behavioral pattern of teenagers, as biologically whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on the upbringing, peer pressure, how civilized the environment is etc. Sex requires proper physical and emotional preparation, as it results in many physical and emotional consequences. This is all considered as a sexual maturation. Therefore, some sects with view to regularize sexual behaviour of the community have acknowledged this biological factor and therefore, the early age marriages are performed in some religions or communities. Taking into consideration this social and biological factors, the law makers have considered the age of 15 as a age of consent when the marriage is performed.

11. Applicant is in jail for almost 19 months. There is no apprehension expressed by the prosecution of any likelihood of threats or intimidation if the Applicant is released on bail. Trial has commenced. Prosecution has examined 3 out of the 26 witnesses. Trial would take some time for conclusion. Applicant is a labourer by profession. Applicant is 19 years of age, deserves to get employment to plan and secure his future. Mr. Ramchandra Wagh submits that the Applicant does not have any criminal antecedents. Considering the facts and circumstances of the present case, incarceration of the Applicant as an undertrial is not warranted. Applicant is therefore entitled to bail.

12. Mr. Ramchandra Wagh, learned Advocate for the Applicant, states that if indulgence is shown to the Applicant, he has instructions from the Applicant to state that the Applicant shall stay out of the territorial jurisdiction of Chandwad Police Station, Nashik, till the conclusion of trial in Special POCSO Case No.10 of 2024. Statement is accepted.

13. In view of the above, Bail Application is allowed in the following conditions :-

(a) Applicant be released on bail in Crime No.507 of 2023 registered with Chandwad Police Station, Nashik upon furnishing P.R. Bond in the sum of Rs. 25,000/- each with one or two sureties in the like amount, to the satisfaction of the Additional Sessions Judge, Niphad.

(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 a person from disclosing the facts to the Court or any Police Officer and shall not tamper with evidence.

(c) Applicant, upon his release, within 3 days shall furnish to the Investigating Officer, Chandwad Police Station, District Nashik, his residential address with proof and contact numbers and shall keep the Investigating Officer intimated about the change in the same from time to time.

(d) Applicant shall regularly appear before the learned Additional Sessions Judge, Niphad, as and when the date in Special POCSO Case No.10 of 2024 is fixed, unless exempted by the Court.

(e) Applicant shall not enter the territorial jurisdiction of Chandwad Police Station, District Nashik, till the conclusion of the Trial in Special POCSO Case No.10 of 2024.

(f) Applicant shall not contact the victim or any of the family members in whatsoever manner.

14. The Bail Application No.4713 of 2024 is allowed in the above said terms.

(ASHWIN D. BHOBE, J.)