

Salgaonkar

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

BAIL APPLICATION NO.4771 of 2024

Bhai Sudhakar Shinde ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr.Nilesh Navale for the Applicant.

Ms.Supriya I. Kak, A.P.P for the State-Respondent.

PSI Rajendra Salve, attached to Murbad Police Station,
present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 26, 2025

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, by the Applicant seeking regular bail in connection with Crime Register No. 42 of 2024, registered with Murbad Police Station, District Thane, for the offences punishable under Sections 305 and 363 read with 34 of the Indian Penal Code, 1860, Sections 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012, and Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015.

2. As per the case of the prosecution, Respondent No. 2, who is the father of the deceased minor child, has lodged the complaint.

It is alleged that the deceased left behind a suicide note, wherein he has referred to constant beating, torture and humiliation at the hands of the present Applicant and other co-accused persons. It is further stated that such acts were carried out in the presence of others, and video recording of the same was also made. According to the prosecution, such acts of cruelty and harassment, especially in the sensitive context of a child, caused deep mental distress to the deceased, ultimately leading him to take the extreme step of suicide. The Applicant was arrested on 24th February 2024, and since then, he is in custody. His bail application was rejected by the learned Sessions Court, and hence, the Applicant has approached this Court for regular bail.

3. Learned counsel appearing for the Applicant submitted that the specific role attributed to the Applicant in the suicide note is that he instigated or directed the other co-accused to take the deceased on a hill, beat him and record the act. However, it is submitted that the actual act of beating, removal of clothes, and circulation of the video was done by other co-accused and not by the present Applicant. It is argued that the graver and humiliating act, which may have pushed the child to suicide, was the circulation of the video showing the child without clothes, and this, according to the prosecution material, is not done by the Applicant himself. It is further submitted that the investigation is complete, charge-sheet is already filed, and there is no possibility of tampering with the witnesses. The Applicant is a young person with no criminal antecedents, and therefore, he may be granted bail.

4. On the other hand, learned APP has strongly opposed the bail application, contending that the suicide note clearly mentions the involvement of the present Applicant. The role of the Applicant in instigating or directing others to commit the act of assault and humiliation is sufficient to attract Section 305 of the IPC, which deals with abetment of suicide of a child, and carries minimum punishment of ten years, which may extend to life imprisonment. It is also pointed out that statements of other witnesses corroborate the incident, and the making and circulation of the video is also confirmed during the investigation. The learned APP, therefore, submits that considering the seriousness and gravity of the offence and the impact of such acts on a minor, the application deserves to be rejected.

5. I have carefully considered the submissions advanced by both sides and have perused the material placed on record, including the contents of the suicide note, statements of witnesses, and the charge-sheet filed by the Investigating Officer. At the outset, it is important to note that the investigation is complete, and the charge-sheet has already been filed before the competent Court. The Applicant has been in judicial custody since 24th February 2024.

6. From the suicide note, it appears that the role attributed to the present Applicant is that of instigating or directing the other co-accused to take the deceased on the hill and commit acts of assault and videography. The actual act of physical assault, removal of clothes, and circulation of the video, which, prima facie, appears to be the immediate cause for the deceased's

extreme step, is not alleged to have been directly committed by the Applicant. Whether the Applicant's conduct would amount to abetment of suicide under Section 305 of the IPC, and to what extent, is a matter that shall be decided during trial after appreciating the evidence in detail.

7. The prosecution does not dispute that the Applicant is not involved in past criminal activity and has no antecedents. There is also no material on record to show that the Applicant may tamper with evidence or influence witnesses, especially now that the investigation is complete and the statements have been recorded. The possibility of prolonged pre-trial incarceration, particularly in offences where the exact nature of the role played is arguable, would cause hardship to the Applicant, who is presumed to be innocent until proven guilty.

8. Bail, at this stage, does not amount to an acquittal. However, it serves the purpose of ensuring fair trial while protecting the liberty of an undertrial, especially when the person has cooperated with investigation and is ready to abide by any conditions imposed by this Court.

9. Considering the overall facts and circumstances of the case, including the limited role ascribed to the Applicant, the completion of investigation, the lack of criminal antecedents, and the principle of parity, as some co-accused may also be similarly placed, I am of the considered view that the Applicant deserves to be released on regular bail, subject to certain conditions.

: **ORDER** :

- (a) The Application is allowed.
- (b) The Applicant is directed to be released on bail upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:-
 - (i) The Applicant shall not tamper with the evidence or attempt to influence any witness.
 - (ii) The Applicant shall report to the Investigating Officer on first Monday of every month between 10.00 a.m. and 12.00 noon for a period of three months.
 - (iii) The Applicant shall appear before the Trial Court on every date of hearing, unless prevented by sufficient cause.
 - (iv) The Applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - (v) The Applicant shall not indulge in any criminal activity during the pendency of the trial.
 - (vi) Breach of any of the above conditions shall entail cancellation of bail.

(AMIT BORKAR, J.)