

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.5065 OF 2024**

Vishal Pravin Oganiya	...Applicant
<i>Versus</i>	
State of Maharashtra & Anr.	...Respondents

Mr. Siddharth Desai, *with Rishabh Yadav, for the Applicant.*
Ms. Manisha R. Tidke, *APP for the Respondent-State.*
Ms. Aneesa Cheema (Legal Aid Counsel), *for the Respondent*
No.2-

CORAM DR. NEELA GOKHALE, J.
DATED: 24th NOVEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No. 212 of 2024 dated 13th March 2024 registered with the Kasturba Sub Police Station, Brihanmumbai City for the offences punishable under Sections 376(2)(n) of the Indian Penal Code, 1860 (for short 'IPC') and under Sections 4, 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO Act').

2. The facts of the case revealed that the Applicant was stated to have turned major and the Victim, i.e., the Complainant herein, was only 15 years of age at the time of incident. According to the Victim, she was introduced to the Applicant and they used to talk with each other and go out together. It is also her allegation that on 8th March 2024, the Applicant came to her locality and called her outside. She went to meet him and he raped her. He also started troubling her and hence, she confided in her mother. Her mother brought the conduct of the Applicant to his mother's notice. Thereafter, the present FIR came to be registered.

3. By order dated 22nd September 2025, this Court had requested the Trial Court to record the deposition of the Victim. Accordingly, the Trial Court has recorded the deposition of the Victim-First Informant. The said deposition is tendered by Mr. Siddharth Desai, learned counsel appearing for the Applicant. The same is taken on record. I have gone through the deposition of the Victim. Her statement is

consistent with her earlier statements and she still alleges sexual assault by the Applicant.

4. Mr. Siddharth Desai, learned counsel appearing for the Applicant, however, has brought to my notice, the statement of witness, namely, Vinod Waghela, a person staying in the neighbourhood. He has also pointed to the statements of other witnesses, who are also staying in the same locality. It appears that the Applicant and the Victim-First Informant were friends and were going out with each other.

5. Ms. Manisha Tidke, learned APP representing the State in the matter, submits that the prosecution intends to examine only 7 witnesses.

6. Undoubtedly, the Victim-First Informant is a minor and the prosecution has rightly invoked provisions of the POCSO Act against the Applicant. Be that as it may, the Applicant himself is 18 years of age, as per the ossification test conducted by the Authorities of Sir J.J. Group of Hospitals,

Mumbai. However, in the facts and circumstances of the present case, the act of the Applicant, himself on the threshold of attaining majority, *prima facie*, seems to be an adolescent affection. It may not serve the ends of justice to even unintentionally criminalise this love relationship and subject the Applicant to the rigours of the criminal justice process.

7. Considering the totality of the circumstances, it is not desirable for the Applicant, who is also 18 years of age, to continue to be incarcerated in the company of hardened criminals. Hence, I am inclined to enlarge the Applicant on bail.

ORDER

i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.10,000/ with one or two local sureties in the like amount;

ii) The Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court and he shall not enter the area of Borivali

(East), being the place of the residence of the Victim-First Informant, till the conclusion of the trial;

iii) The Applicant shall attend the Police Station concerned once in a month on the first Monday of every month between 11:00 a.m. and 02:00 p.m., till the charges are framed;

iv) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the Police Station concerned, if any;

vi) The Applicant shall not leave India, without the permission of the Trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

8. The Application is allowed in the above terms and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the

learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

10. The Trial Court is requested to expedite the trial and conclude the same within 6 months from the date on which this order is placed before it.

(DR. NEELA GOKHALE, J)

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