

Nikita

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

BAIL APPLICATION NO.5126 OF 2024

Tauseef @ Tausif Monish Khan	... Applicant
V/s.	
The State of Maharashtra and Anr.	... Respondents

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Date: 2025.07.22
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Mr. Navkar Jain a/w Mr. Vivek Thakare a/w Y. R. Pande
for the Applicant.

Ms. Veera Shinde, APP for the State.

Mr. Vikram Walawalkar for the Respondent No.2.

Mr. Tukaram Mengal, PSI, Aarey Police Station,
Mumbai.

CORAM : ASHWIN D. BHOBE, J.

DATED : 21st JULY, 2025

P.C.:

1. Heard Mr. Navkar Jain learned Advocate for the Applicant, Ms. Veera Shinde, learned APP for the State and Mr. Vikram Walawalkar, learned Advocate for the Respondent No.2.

2. Applicant by the present application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023, is seeking bail in connection with C. R. No.429 of 2022 registered with Aarey Police Station, Mumbai, for the offences punishable under Sections 354(A), 354(D), of IPC and Sections 11, 12 of the Protection of Children from Sexual Offences Act, 2012, and Section 66((E), 66(B) of the IT Act. Said crime is registered as Special Case

No.620 of 2022 pending before the Special Judge under the POCSO Act, Borivali (Div), Dindoshi, Goregaon, Mumbai.

3. Case of the prosecution is that the Respondent No.2 on 30.08.2022, upon noticing unusual behavior of victim (minor daughter), inquired the reason for such behavior. At this point, victim disclosed to her mother that she had developed friendship with the Applicant who had asked her to send nude photographs. She sent her nude photographs and videos to the Applicant.

4. Applicant was arrested on 16.11.2022, since then he is in jail. First bail application of the Applicant at Exhibit-4 in Sessions Case No.620 of 2022, was rejected by the learned Special Judge under the POCSO Act, Borivali (Div), Dindoshi, Goregaon, Mumbai by order dated 26.10.2023. Second Bail Applicant at Exhibit-10 filed by the Applicant in the said case came to be rejected on 05.09.2024.

5. Mr. Navkar Jain, learned Advocate for the Applicant submits that there is a delay of two months in registration of crime. He submits that the Applicant is in custody since 16.11.2022, recoveries are made at the instance of the Applicant and the charge-sheet is filed. He submits that the charge is also framed in the matter. However, the trial has not commenced.

6. Ms. Veera Shinde, learned APP for the State submits that the crime pertains to violation of a minor girl. She submits that the Applicant has taken undue advantage of the minor and committed the present crime. She submits that the charge being framed, the trial is likely to commence at any stage.

7. Mr. Vikram Walawalkar, learned Advocate for the Respondent No.2 submits that the Applicant has antecedents. By pointing out to the record he submits that just prior to the present crime, Applicant was involved in the similar and identical crime. He submits that the Applicant is in habit of committing such crime and if released on bail, he would repeat such offence by targeting vulnerable victims.

8. I have perused the record with the able assistance of learned Advocates for the parties.

9. Applicant was charged with the following Sections 354(A), 354(D), of IPC and Sections 11 and 12 of the Protection of Children from Sexual Offences Act, 2012, and Section 66((E), 66(B) of the IT Act. Maximum punishment for the said crime, is up to five years. Applicant is in jail for almost two years and eight months. Recoveries have been made at the instance of the Applicant as submitted by Mr. Navkar Jain. Though, charge is framed, trial has not commenced. In such circumstances, considering the maximum punishment in the event, Applicant is found guilty of the offences charged, being five years, though charge was framed on 18.02.2025, the trial having not commenced, would be a circumstance which would entitle the Applicant to bail. Applicant cannot continue as under trial, indefinitely, more so, in respect of the offences, punishment of which is up to five years. It is on this ground that the Applicant is enlarged on bail.

10. Apprehensions expressed by the Respondents, of the

Applicant committing / repeating the crime can be taken care of by imposing stringent conditions.

11. Mr. Navkar Jain, learned Advocate for the Applicant states that he has instructions from the Applicant to submit that in the event, indulgence is shown to the Applicant, Applicant shall abide by all the conditions that may be imposed by this Court including the condition to stay out of the territorial jurisdiction of Mumbai, till the conclusion the trial.

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

- a) Applicant is directed to be released on bail in connection with C. R. No.429 of 2022 registered with Aarey Police Station, Mumbai on his furnishing PR bond in the sum of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of Special Judge under the POCSO Act, Borivali (Div), Dindoshi, Goregaon, Mumbai.
- b) Applicant shall attend and regularly appear before the Special Judge under the POCSO Act, Borivali (Div), Dindoshi, Goregaon, Mumbai in Special Case No.620 of 2022 on each date of hearing, unless specifically exempted by the Court.
- c) Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of the case so as to dissuade him from disclosing the facts to the Court or any police officer and shall not tamper with evidence.

- d) Applicant upon his release, within 3 days shall furnish to the Investigation Officer, Aarey Police Station, Mumbai his residential address with proof and the contact number and to keep the Investigation Officer intimated about the change in the same from time to time.
- e) Applicant shall not contact the victim or any of the family member of the victim.
- f) Applicant shall not enter the territorial jurisdiction of the city of Mumbai, till the conclusion of the trial in Special Case No.620 of 2022.
- g) Applicant shall not indulge or involve himself in the similar type of offences.
- h) In the event of breach of any of the conditions, this bail shall be liable to be cancelled.

13. The Bail Application No.5126 of 2024 is allowed in the above said terms.

(ASHWIN D. BHOBE. J.)