

Ajit

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 5172 OF 2024**

Mahesh Radhyesham Yadav	...Applicant
Versus	
State Of Maharashtra	...Respondent

Mr. Aamir Shaikh, *for the Applicant.*
Mrs. Megha S. Bajoria, *APP for the State-Respondent No.1.*
Ms. Komal Sinhai, *for Respondent No.2. (Legal Aid Counsel)*
API – Jayashri R. Anawane, *Bhiwandi City Police Station, is presnet.*

CORAM Dr. Neela Gokhale, J.
DATED: 22nd September 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 113 of 2023, dated 24th February 2023, registered with Bhiwandi Police Station, Thane, in connection with offences punishable under Sections 376 (2)(i), 363, 354, 342, 506 of the Indian Penal Code, 1860 ('IPC') and Sections 4(2), 8, 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

2. The case of the prosecution is that the Complainant was aged 14 years 9 months and 23 days at the time of the incident and was studying in 8th Standard. On 21st February 2023 at around 8 p.m. when the victim had gone to answer nature's call in the public toilet near home, the Applicant forced her to accompany him to his house, removed her clothes, inappropriately touched her and committed sexual violence on her. When she tried to resist, he intimidated her and threatened her that he will kill her if she shouts. The victim shouted and being apprehensive that someone would come into his room, the Applicant placed a mattress and other heavy objects on her for one and a half hours. Thereafter, he took her from his house and dropped her outside. The girl was dizzy and she collapsed on the steps of the Applicant's house. When she regained consciousness, she found herself in her own home. It appears that the neighbors or some persons who saw her collapse took her to her home. The father of the victim was out of station at the time of the incident, and as soon as he returned, the victim along with her father went to

the police station and made a complaint, pursuant to which the present FIR came to be registered. The Applicant made three successive bail applications before the Special Court under POCSO, Bhiwandi, all the three applications were rejected on merits. Hence, he has filed the present bail application for release.

3. Mr. Aamir Shaikh, learned counsel for the Applicant, submits that the Applicant is in custody since 28th February 2023. He submits that the deposition of the victim has already been recorded by the Trial Court and there is no threat to her. He also points out the physical examination report of the victim, which according to him, does not support the case of the prosecution. He thus, submits that no purpose would be served by continuing to keep the Applicant incarcerated. He thus, prays that the Applicant be released on bail.

4. Per contra, Ms. Megha Bajoria, learned APP, has tendered the deposition of the Complainant as recorded by the Trial Court, the same is taken on record. She also brings to

my notice the *nivedan panchanama*, and submits that, at the behest of the Applicant, his clothes were recovered from the house where the incident occurred. Ms. Bajoria further draws my attention to the statement of the cousin of the victim, who has narrated and corroborated the said incident. It is evident from the record that the Applicant ran away after the victim collapsed outside his house. She also points out to the statement of the neighbor, who is an independent witness. The statement is also consistent with the statement of the victim and the cousin sister. Ms. Bajoria contends that the Applicant ran away from the spot and was apprehended after seven days from his neighbor's place in Uttar Pradesh. To counter the contention of the learned counsel for the Applicant in respect of the medical report, Ms. Bajoria submits that the incident was not of the kind which would leave any physical damage or injuries on the victim which could be identified in the medical examination. She thus, prays that the bail application be rejected. Although the number of witnesses are given in the witness list are more, on instructions, she

submits that the total witnesses that the prosecution intends to examine are only 14. In any case, the deposition of the Complainant is already completed.

5. Ms. Komal Sinha, learned counsel for Respondent No. 2-victim, supports the arguments of Ms. Bajoria. Additionally, she submits that the age of the victim was below 15 years at the time of the incident and no discretion should be used to grant bail to the Applicant.

6. I have heard the counsel for all the respective parties and have perused the record with their assistance. I have also gone through the deposition of the prosecution witness i.e., the victim herself. It is quite clear that the testimony of the victim is consistent with her initial statement and all the statements recorded of the witnesses. She has supported the case of the prosecution fully.

7. I have also gone through the *nivedan panchanama* and the statements of the other witnesses, which corroborated the

story stated by the Complainant. I am inclined to agree with Ms. Bajoria in respect of her explanation regarding the medical report. Considering that the victim was below 15 years of age at the time of the incident, as well as her evidence is already recorded and that only 14 witnesses are yet to be examined, I am not inclined to grant bail to the Applicant.

8. This is not a fit case for the grant of bail. Accordingly, the bail application is rejected.

(Dr. Neela Gokhale, J)