

AGK

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

BAIL APPLICATION NO.5344 OF 2024

Prakash Roopchand Jagtap	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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Ms. Apeksha M. Vora for the applicant.
Ms. Supriya Kak, APP for respondent No.1-State.
Ms. Priyanka H. Chavan for respondent No.2-victims.
Mr. Sawant Meghwadi, PSI is present in Court.

CORAM : AMIT BORKAR, J.

DATED : JUNE 13, 2025

P.C.:

1. This is a bail application filed under Section 439 of the Code of Criminal Procedure, 1973. The applicant seeks his release in connection with Crime Register No.449 of 2022 registered at Samta Nagar Police Station. The offences alleged against the applicant are serious in nature and include Sections 376, 376(2)(n)(i), and 370 of the Indian Penal Code, 1860 (IPC), along with Sections 4, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).
2. As per the case of the prosecution, one Minal Pathare, who is associated with a Non-Governmental Organization (NGO) named

Prayas, was working for the welfare and rehabilitation of women prisoners. During her work at Byculla Jail, she came in contact with one Suvarna Waghmare, who is the mother of the two minor victims in the present case. The mother was in custody at the time, and her daughters used to visit her at the jail, often accompanied by one Raghu Yadav, who is a friend of the said Suvarna Waghmare.

3. On 12th July 2022, Minal Pathare visited the house of the minor victims and, during her interaction, she came to know from the victims about their alleged sexual exploitation. It was alleged that Raghu Yadav, the present applicant, and some other persons were involved in the said acts. The very next day, i.e., on 13th July 2022, the victims were produced before the Child Welfare Committee (CWC), following a recommendation made by their mother. Subsequently, the facts of the alleged exploitation were shared by Minal Pathare with one Varsha Pawar, who is associated with another organization called Committed Community Development Centre. It was specifically alleged that the applicant was pushing the victims into immoral trafficking. Based on this information, the present offence came to be registered.

4. During the course of investigation, it surfaced that initially Raghu Yadav started sexually exploiting the victims. Thereafter, the applicant, who was residing in the same locality, allegedly took both the minor victims to his native village. It is further alleged that while in his custody, the applicant made the victims consume liquor forcibly and forced them into activities of immoral trafficking. The police recorded the statements of the victims,

conducted their medical examination, and arrested the applicant and other co-accused. They were then produced before the Special Court constituted under the POCSO Act.

5. The applicant had earlier moved an application for bail before the Special Court, which came to be rejected. He has now approached this Court by filing the present application seeking bail.

6. Learned Advocate for the applicant has submitted that there are significant contradictions in the statements made by the victims. She pointed out that the victims, in their police statements, have claimed that they were not made aware of the contents of the statement recorded under Section 164 of the Criminal Procedure Code before the learned Magistrate. It is also contended that the prosecution has failed to produce any reliable document or material to prove the age of the victims as being 11 and 13 years respectively on the date of the incident. The learned counsel also submitted that there is no specific allegation that the applicant had committed penetrative sexual assault upon the victims, and as such, the ingredients of Section 376 IPC and Section 4 of the POCSO Act are not satisfied. Therefore, she urged that the applicant be released on bail.

7. On the other hand, the learned APP has opposed the bail application and pointed out that the victims were minor girls aged about 11 and 13 years at the relevant time. He referred to the detailed statements of the victims as well as statements of other prosecution witnesses which prima facie indicate that the applicant

had transported the minor girls from their home and taken them to another location. The prosecution case further discloses that the applicant used threats and coercion, and forced the minor victims into immoral trafficking. He submitted that these acts attract the rigours of Section 370(5) of the IPC, which deals with trafficking of more than one minor using threats, coercion or inducement. He, therefore, submitted that considering the gravity of the allegations and the vulnerability of the victims, the applicant does not deserve to be enlarged on bail.

8. After giving anxious consideration to the rival submissions and having carefully gone through the material placed on record, the following aspects emerge:

(i) The offences alleged against the applicant are grave and serious in nature, involving sexual exploitation and trafficking of minor girls, aged 11 and 13 years. The ingredients of Sections 370 and 376 of the IPC and Sections 4, 8, and 12 of the POCSO Act are attracted, prima facie, on the basis of the statements of the victims.

(ii) The statements of the minor victims recorded under Section 164 of CrPC before the Magistrate narrate that they were not only forcibly taken away by the applicant but were also subjected to threats and compelled to consume alcohol. There are allegations of immoral trafficking facilitated by the applicant, which, at this stage, cannot be ignored. The prosecution has also placed on record the statements of independent social workers, namely Minal Pathare and

Varsha Pawar, which corroborate the chain of events and support the version given by the victims.

(iii) Though the learned Advocate for the applicant raised doubts regarding the age of the victims and inconsistencies in their statements, it needs to be observed that the age of the victims, as recorded by the Child Welfare Committee and mentioned in the FIR, is supported by their school records, which prima facie suggests they were minors at the time of the incident. In bail proceedings, this Court is not required to conduct a mini trial or evaluate credibility at this stage. The question of reliability of statements will be tested during trial.

(iv) So far as the argument regarding lack of allegation of penetrative sexual assault is concerned, even if such an allegation is absent against the applicant, the prosecution has levelled serious allegations of trafficking under Section 370 IPC, which, if true, is independently sufficient to deny bail. Section 370(5) of IPC prescribes a punishment of not less than ten years and extends to life imprisonment, especially when more than one minor is trafficked, which is the case here.

(v) The law is settled that in cases of sexual offences, especially involving minor victims, the version of the prosecutrix needs to be given due weightage at the stage of bail. In cases involving minor victims of sexual assault, courts must be cautious and sensitive while exercising

discretion in bail matters.

(vi) The offence under Section 370 IPC read with POCSO provisions is grave, punishable with long-term imprisonment. The possibility of tampering with evidence or influencing the minor victims, if the applicant is released on bail, cannot be ruled out. The stage of trial is yet to commence, and the material witnesses, including the victims and the social workers, are yet to be examined. Furthermore, the offence alleged involves not only grave moral turpitude but also the exploitation of the most vulnerable segment of society—minor girls. The potential for threats, influence or inducement to the victims cannot be ruled out at this stage.

9. Considering the overall facts and circumstances, the gravity of allegations, the age of the victims, the corroborative statements of independent witnesses, and the serious charge under Section 370(5) of IPC, this Court is not inclined to grant bail to the applicant at this stage. The possibility of misuse of liberty and danger to the safety and mental well-being of the victims also weighs against the applicant.

10. Accordingly, the Bail Application stands rejected.

(AMIT BORKAR, J.)