

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.466 OF 2025
(OLD CASE NUMBER: INTERIM APPLICATION NO.3302 OF 2025)

Poonam Amit Shroti on Behalf of XYZ	...Applicant
<i>Versus</i>	
Amit Mahesh Chand Shroti	...Respondent

Mr. Ramprasad V. Gupta a/w Rohit Vaishya, Shraddha Rathod
and Sunil Rajbhar, *for the Applicant.*
Ms. Manisha R. Tidke, *APP for the Respondent - State.*
PSI – Sharad Ravade, Kashimira Police Station, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 10TH DECEMBER 2025

PC: -

- 1.** The Registry has once again not placed the papers in the matter before the Court despite repeated requests made to them to ensure that the matters are placed before the Court on the date on which they are shown on the cause-list.

- 2.** In order to avoid inconvenience to the parties, I am constrained to take a hard copy from the learned APP and proceed to hear the matter.

3. By order dated 10th October, 2025, notice was issued to Respondent No.1. The Investigating Officer was also requested to serve Respondent No.1. Accordingly, the Investigating Officer of the Kashimira Police Station has effected due service on Respondent No.1 on 8th December, 2025. Despite receiving the said notice, the Respondent No.1 is neither represented by any counsel nor he has appeared before this Court.

4. The learned Advocate for the Applicant has tendered Affidavit of Service in Court. The same is taken on record.

5. By way of this Application, the Applicant seeks cancellation of bail granted to Respondent No.1 by order dated 25th June, 2025, passed by the learned Special Judge (POCSO), Thane in C.R. No.174 of 2025. Paragraph No.8 of the said order reads thus:

“8] The record indicates that the applicant is step father of victim aged 16 years 10 months. The allegations of penetrative sexual assault and repeated sexual harassment are levelled against the applicant. However, there appears to

be some matrimonial dispute between the applicant and his wife. It appears from the FIR that the first incident allegedly took place in April-2023 when applicant moved hand on her stomach, pressed her breast and kissed on her cheeks and lips. She has not raised any grievance with her mother about this. After that according to her, repeatedly applicant inappropriately touched her, pressed her breast and inserted finger in her private part. At that time also, she has not raised any grievance against the applicant with her mother. FIR reveals that last incident is of 18.04.2025. After this incident FIR came to be lodged. As per the contentions of victim, the incident repeatedly happened with the victim girl since April-2023 till April-2025, then why suddenly on 18.04.2025 FIR came to be lodged. The reason given by the victim that applicant had threatened to kill her and her grandparents does not sound probable. Now the investigation is completed and charge-sheet is filed. The applicant is behind bar since 21.04.2025. Trial will take much time. His further detention behind bar is not warranted. Apprehension expressed by the prosecution can be minimized by imposing stringent conditions. Therefore, in my view, it is a fit case to release the applicant on bail by imposing stringent conditions. Hence, the following order:"

6. The facts of the case, in brief, as discerned from the FIR dated 20th April, 2025, filed by the minor victim, aged 16 years and 10 months are that the victim's mother was a divorcee. She married Respondent No.1 in the year 2014 after taking divorce from her first husband. After marrying Respondent No.1, she started residing with Respondent No.1 alongwith her daughter - the victim, and his son from a previous marriage. They were staying in a 2.5 BHK flat. The mother of victim namely Poonam was sharing the master bedroom with Respondent No.1 and victim's step brother – Aarav while the victim girl was sleeping in her bedroom

alone. In her statement, the victim has narrated incidents of sexual assault by her step-father i.e. Respondent No.1 on as many as five occasions. She also alleged that Respondent No.1 raped her on at least two to three occasions. As the victim is a minor, the FIR was registered under the provisions of 64(2)(f), 64(2)(i), 64(2)(m), 65(1), 74, 75 and 351(2) of the Bhartiya Nyaya Sanhita, 2023 ('**BNS**') and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO**').

7. Mr. Gupta, learned counsel for the Applicant, submits that the Trial court has not appreciated the gravity and seriousness of the offence. The sexual assault is by the step-father who has misused his position and has exploited the helpless minor victim. The only reason given by the Trial court to justify grant of bail to the Applicant is on the premise that there was a marital discord between the victim's mother and the Respondent No.1. Another reason for the grant of bail is on the ground that there was a delay in registration of the

FIR. He submits that the Respondent No.1, if allowed to continue on bail during the pendency of the trial, is likely to influence the trial and there is also imminent threat to the lives of the victim and her mother. He thus, submits that there is an infirmity in the order granting bail to the Respondent No.1. He further submits that the first incident of sexual assault, in fact took place when the minor victim was only 14 years of age. He submits that the last incident was of 15th April, 2025 and the FIR was registered on 20th April, 2025. In these circumstances, it cannot be said that there was a delay in registration of the FIR. He submits that the order granting bail to the Respondent No.1 is untenable and hence, the bail be cancelled.

8. Ms. Tidke, learned APP representing the State, in fact supports the case of the Applicant. She also drew my attention to a voice note recording sent by the Respondent No.1 from his mobile phone to the mobile phone of the victim on WhatsApp. The said WhatsApp voice note in the Pen-Drive

is seized by the police and has been sent for the FSL to MINI Forensic Science Laboratory on 25th April, 2025 itself. The report is yet awaited. Ms. Tidke further supports the Applicant's case, inasmuch as she also admits that the offence is serious especially in view of the fact that it is alleged to have been committed by the step-father himself. She also supports the plea of the Applicant that bail granted to the Respondent No.1 be cancelled.

9. I have heard learned counsel for the respective parties and perused the record with their assistance.

10. A plain reading of the order reveals that the trial Court enlarged the Respondent No.1 on bail without examining all material aspects placed by the prosecution before the Court by way of the charge-sheet.

11. At the outset, the allegations in the FIR and the role attributed to the Respondent No.1 are sufficient to shake the conscience of this Court. The Respondent No.1, who is the

step-father, under whose roof the minor victim resides, is alleged to take advantage of his position of authority. Instead of protecting her, he turned rogue and indulged in sexual exploitation of the helpless minor victim. The allegations attributed to the Respondent No.1 are reprehensible and grave in nature and it is obvious that releasing him on bail is bound to have an adverse effect on the trial because there is an imminent possibility of the witnesses being threatened. The Respondent No.1 is 47 years of age and the victim is a minor.

12. It is settled law that while considering grant of bail in serious criminal offence such as the one in the present case, the Courts must be consider the relevant factors such as the nature of the accusations made against the accused, the manner in which the crime is alleged to have been committed, the gravity of the offence, the act of the accused and also possibility of tampering of witnesses and repeating the offence if released on bail. Undoubtedly, it is also equally settled that bail once granted, ought not to be cancelled in a mechanical

manner. However, the order passed by the Trial Court, enlarging the Respondent No.1 on bail does not record any justification, save and except that the Court appears to have been swayed by an unsupported argument of the Respondent No.1 that there was a matrimonial discord between him and the mother of the minor victim, which was the basis of the FIR. A plain reading of the FIR, however, reveals an entirely different picture. It is only natural that once the mother learnt of the sexual assault and the act of rape committed by her husband on her minor daughter from a previous marriage, she would insist on living separate from the husband and this *per se* by itself cannot be termed as a matrimonial discord, on account of which the FIR is filed.

13. In the facts and circumstances of the present case, the unreasoned and verbose order passed by the learned Trial Court needs interference by this Court. It appears that the Trial Court has ignored the relevant material available on record in the form of WhatsApp voice note as well as the

statements of the mother and the victim herself recorded by the Magistrate under the provisions of Section 183 of the BNSS. Thus, the order granting bail to the Applicant suffers from infirmity, that the Trial Court has not looked into the gravity of the offence or the impact on the minor daughter resulting from such an order.

14. The statement of the minor girl clearly narrates a continuous assault from the time she was 14 years till April, 2025 i.e. for a period of 2 years. It is quite possible that a minor of 14 years was scared to complain to her mother or anybody else as the sexual assault was committed by none other than her step-father, who had also absolute control over the family and under whose roof she was staying. It is when the repetitive assaults became unbearable and when she turned 16 years 10 months old, that she was courageous enough to risk complaining to her mother about the assaults. Immediately, thereafter, the mother left with the victim and took shelter at her own parent's house. This fact cannot be

termed as 'delay' in filing complaint, nor can the separation be termed as 'marital discord' as reasons to grant bail. Moreover, the impugned order records the Respondent No.1 to be arrested only in April, 2025, which in the context of offences charged, cannot be termed as long incarceration.

15. The alleged act committed by the Respondent No.1 is heinous. Considering the totality of the circumstances, I am satisfied that the Trial Court has ignored the relevant material available on record and failed to consider the gravity of the offence.

16. In these circumstances, order dated 25th June, 2025, passed by the learned Special Judge (POCSO), Thane in Criminal Bail Application No.910 of 2025 is cancelled.

17. The police are directed to arrest the Respondent No.1 and take him into custody immediately, and produce him before the Trial Court, whereupon the Trial Court shall pass necessary orders.

18. Criminal Application is allowed in the above terms and is disposed.

(DR. NEELA GOKHALE, J)