

VRJ

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

BAIL APPLICATION NO.85 OF 2025

VAIBHAV
RAMESH
JADHAV

Digitally signed by
VAIBHAV RAMESH
JADHAV
Date: 2025.06.20
17:58:04 +0530

Ajay Ashok Benvanshee

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. Mandar Soman for the applicant.

Ms. Mahalaxmi Ganapathy, APP for the State.

Mr. Bajrang Desai, PSI, Samta Nagar Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JUNE 20, 2025

P.C.:

1. By this application filed under Section 439 of the Criminal Procedure Code, 1973, the applicant is seeking bail in connection with Crime No.436 of 2019 registered with Samta Nagar Police Station for offences punishable under Sections 363, 302, 201 and 354 of the Indian Penal Code, 1860 read with Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. According to the prosecution case as set out in the First Information Report and the charge-sheet filed before this Court, the victim minor girl aged 14 years was allegedly kidnapped by the applicant with the intention to establish physical relation with her against her will and consent. The prosecution further alleges that

when the said minor victim resisted the advances of the applicant and refused to submit to his unlawful desires, the applicant became violent and strangled her using force. Additionally, it is alleged that the applicant assaulted the victim on her head by using a bottle as a weapon, causing grievous injuries which ultimately resulted in her death. The prosecution case further states that after committing the said heinous act, the applicant carried the dead body of the victim on his motorcycle to a secluded place and burnt the same with the intention to destroy evidence and avoid detection by the investigating authorities. The entire incident is alleged to have taken place on 1st October 2019. On the basis of a written complaint lodged by the mother of the deceased victim, the crime was registered at the concerned police station. The applicant was subsequently arrested by the investigating agency on 17th November 2019 and has been in judicial custody since then.

3. The learned counsel appearing for the applicant has vehemently contested the prosecution case and has made detailed submissions in support of the present bail application. The learned counsel has argued that apart from the statement of a neighbor witness and the CCTV footage allegedly indicating the applicant traveling on a motorcycle while carrying a black bag, and the statement of another neighbor witness indicating that the victim was seen entering the applicant's house at around 02:15 p.m. on 1st October 2019, no other substantial or conclusive material evidence has been presented by the prosecution to establish beyond reasonable doubt the applicant's direct involvement in the

alleged killing and the commission of the offences as charged. The learned counsel has further submitted that the evidence collected by the investigating agency is largely circumstantial in nature and does not form a complete chain of circumstances pointing towards the guilt of the applicant. He has therefore submitted that the applicant has made out a prima facie case for grant of bail and that the prosecution has failed to establish a strong case against the applicant at this stage.

4. Moreover, the learned counsel has drawn the attention of this Court to the fact that the applicant was arrested on 17th November 2019 and has been languishing in jail for a considerable period without any fault on his part. He has further submitted that the prosecution has cited as many as 77 witnesses in the charge-sheet, which indicates the voluminous nature of the evidence to be examined during the trial. The learned counsel has pointed out that except for the framing of charges, the trial proceedings have not proceeded further and are still at a preliminary stage. Considering the large number of witnesses to be examined and the slow pace of judicial proceedings, the learned counsel has argued that it is highly unlikely that the trial will be completed in the near future, thereby causing prolonged incarceration of the applicant without trial. On these grounds, the learned counsel has earnestly prayed for the release of the applicant on bail on such terms and conditions as this Court may deem fit and proper.

5. Per contra, the learned Additional Public Prosecutor appearing for the State has strongly opposed the present bail application and has submitted detailed counter-arguments against

the grant of bail to the applicant. The learned APP has submitted that the gravity and seriousness of the offences allegedly committed by the applicant are of such a heinous nature that they shock the conscience of the society. The learned APP has particularly emphasized that considering the tender age of the victim, who was merely 14 years old at the time of the incident, and the brutal nature of the allegations involving kidnapping, sexual assault, and murder, the applicant does not deserve any leniency from this Court and should not be released on bail under any circumstances.

6. The learned APP has further submitted that the case is not based merely on suspicion but is supported by credible evidence including the CCTV footage which clearly indicates the applicant traveling on his motorcycle while carrying a black bag on the date and time of the incident, which strongly corroborates the prosecution's version of events. Additionally, the learned APP has argued that the statement of the neighbor witness who saw the victim entering the applicant's house on the day of the incident also corroborates and strengthens the prosecution case against the applicant. The learned APP has submitted that when viewed collectively, the evidence on record prima facie establishes the involvement of the applicant in the commission of the alleged offences.

7. Furthermore, the learned APP has submitted that considering the serious nature of the charges and the possibility of the applicant influencing witnesses or tampering with evidence if released on bail, the present application deserves to be rejected

outright. The learned APP has therefore prayed that the bail application be dismissed and the applicant be kept in judicial custody until the conclusion of the trial.

8. This Court has carefully considered the rival submissions made by the learned counsel for both sides and has examined the material placed on record.

9. In the present case, this Court notes with concern that the applicant has been in custody since 17th November 2019, which means he has already undergone more than five years of incarceration without trial. The prosecution has cited 77 witnesses in the charge-sheet, indicating the voluminous nature of evidence to be examined. Despite the passage of considerable time, the trial has not progressed beyond the stage of framing of charges.

10. The Supreme Court in *Hussainara Khatoon and Others vs. Home Secretary, State of Bihar (1979) 3 SCC 532* has emphasized that speedy trial is an essential part of fundamental right to life and personal liberty guaranteed under Article 21 of the Constitution. The Court observed that any procedure which permits and sanctions such delay would be unreasonable, unfair and unjust, and would be violative of Article 21.

11. While this Court acknowledges the serious nature of the allegations against the applicant, it must be noted that the prosecution case appears to be primarily based on circumstantial evidence. The evidence consists mainly of CCTV footage showing the applicant on a motorcycle with a black bag and witness statements regarding the victim entering the applicant's house. No

direct evidence linking the applicant to the commission of the alleged offences has been placed on record.

12. After careful consideration of all aspects of the matter, this Court finds that the applicant's fundamental right to speedy trial guaranteed under Article 21 of the Constitution has been violated due to the prolonged delay in commencement and progress of trial. The applicant has been in custody for over five years without any significant progress in the trial proceedings.

13. This Court finds that despite the passage of considerable time, the prosecution has not demonstrated adequate preparedness to proceed with the trial expeditiously. The citation of 77 witnesses indicates a complex and lengthy trial process, which in the current circumstances of judicial administration, is unlikely to be completed in the foreseeable future.

14. While the Court is mindful of the serious nature of the allegations and the need to ensure that justice is served to the victim and her family, it cannot ignore the fundamental principle that prolonged detention without trial amounts to punishment without conviction, which is contrary to the basic tenets of criminal jurisprudence and constitutional law.

15. This Court finds that the interests of justice and the concerns of the prosecution can be adequately addressed by imposing appropriate conditions upon the grant of bail, rather than keeping the applicant in indefinite custody pending trial.

16. The inordinate delay of over five years in the progress of trial, coupled with the uncertainty regarding its completion in the

near future, constitutes sufficient ground for granting bail to the applicant. The constitutional guarantee of speedy trial cannot be rendered meaningless by indefinite pre-trial detention.

17. This Court, therefore, finds that the applicant has made out a strong case for grant of bail primarily on the ground of unreasonable delay in trial, and the same deserves to be allowed subject to appropriate terms and conditions to ensure the applicant's presence during trial and to address the legitimate concerns of the prosecution.

18. Hence, the following order is passed:

- i. The applicant Ajay Ashok Benvanshee is directed to be released on bail in connection with Crime No.436 of 2019 registered with Samta Nagar Police Station for offences punishable under Sections 363, 302, 201 and 354 of the Indian Penal Code, 1860 read with Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, upon furnishing cash sureties of Rs.25,000/- (Rupees Twenty Five Thousand Only) and thereafter executing a Personal Recognizance (PR.) Bond in the like amount, within a period of eight weeks from the date of his release, subject to the following conditions:
- ii. The applicant shall not tamper with the evidence or attempt to influence any witnesses in any manner.
- iii. The applicant shall regularly remain present before the Trial Court on every date of hearing, unless prevented by sufficient and justifiable cause.

- iv. The applicant shall report to the Samta Nagar Police Station on first Monday of every month between 10:00 a.m. to 12:00 noon until further orders.
- v. The applicant shall not leave the territorial jurisdiction of the concerned Trial Court without obtaining prior permission.
- vi. The applicant shall not, in any manner, contact the victim and family members, directly or indirectly.
- vii. The applicant shall not commit any offence or indulge in any criminal activity during the pendency of the trial.
- viii. The applicant shall not breach any condition during the pendency of trial, failing which his bail is liable to be cancelled.

(AMIT BORKAR, J.)