

AGK

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

BAIL APPLICATION NO.90 OF 2025

Nilesh Pandurang Patil	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.09.22
18:39:36 +0530

Mr. Sachin R. Pawar with Mr. Dewang Mhatre for the applicant.

Mr. Sagar R. Agarkar, APP for respondent No.1-State.

Mr. Rohan Kaich with Padmasinha Patil (through V.C.) for respondent No.2-complainant.

Mr. Kunal Chaudhary, Mhasla Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 22, 2025

P.C.:

1. The present application has been filed by the applicant under Section 439 of the Criminal Procedure Code, 1973, seeking regular bail in connection with Crime No. 82 of 2024 registered at Mhasla Police Station. The applicant has been booked for offences punishable under Sections 376(2)(j), 376(2)(n), and 506 of the Indian Penal Code, 1860, as well as Sections 4, 6, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. As per the case of the prosecution, the applicant and the complainant reside in the same locality and are neighbours. On 1st October 2023 at about 2:00 p.m., the applicant called the complainant to his house for some work. When the complainant

reached there, the applicant expressed his feelings towards her. The complainant did not respond and returned home. Again, on 3rd October 2023 at about 10:00 p.m., the applicant called her to his house and repeated his feelings. The complainant again did not respond and went back home. On 4th October 2023, the applicant left for Mumbai.

3. On 1st April 2024 at about 10:00 p.m., the applicant called the complainant to his house. At that time, no one else was present at the applicant's residence. He took the complainant to the kitchen and asked her to sit beside him. When she resisted, the applicant forcibly made her sit and removed her clothes. Thereafter, he committed sexual intercourse with her against her will. He threatened her not to disclose the incident to anyone and warned her of serious consequences.

4. On 2nd April 2024 at about 10:00 p.m., the applicant again called the complainant to his house. The complainant went there without informing anyone. The applicant again took her to the kitchen and had sexual intercourse with her. He again threatened her with dire consequences if she disclosed the incident. On 5th August 2024, the complainant's parents took her to the hospital as she had not had her menstrual cycle for the past five months. Upon medical examination, it was found that she was pregnant. Thereafter, the present complaint came to be registered.

5. The learned counsel appearing for the applicant submitted that the statement of the victim, including her statement recorded under Section 164 of the Criminal Procedure Code, does not

indicate any use of force or coercion by the applicant. He further submitted that there was a love affair between the applicant and the victim. The applicant is aged about 24 years, whereas the victim is aged about 14 years and 10 months. Hence, it is submitted that the applicant deserves to be released on regular bail.

6. On the other hand, the learned Additional Public Prosecutor opposed the bail application. He submitted that in view of the age of the victim, her consent is immaterial. He pointed out that the statements of the victim, including the one recorded under Section 164 of the Cr.P.C., clearly indicate that the applicant committed sexual intercourse against the will of the minor victim. Therefore, he prayed for rejection of the bail application.

7. Learned Advocate appearing for the victim submitted that the mother and father of the victim have no objection if the applicant is released on bail.

8. I have carefully considered the submissions made by the learned counsel for the applicant and the learned Additional Public Prosecutor, as well as the material placed on record including the FIR, statement of the victim under Section 164 of the Criminal Procedure Code, and medical documents.

9. It is pertinent to note that the FIR was lodged on 5 August 2024, whereas the alleged incidents are stated to have occurred on 1 April 2024 and 2 April 2024. There is a delay of more than four months in lodging the FIR, which is not explained satisfactorily. Though delay in such cases may not be fatal, it is a relevant factor

for consideration at the stage of bail.

10. The statement of the victim under Section 164 Cr.P.C. indicates that she had visited the applicant's house on multiple occasions, including after the first alleged incident. This conduct raises doubt regarding the element of coercion or immediate threat, which is central to the prosecution's case.

11. The medical report confirms pregnancy, but there is no DNA report on record to establish paternity. The prosecution has not yet filed the charge sheet, and the investigation appears to be incomplete. The applicant has been in custody since his arrest and no further custodial interrogation is shown to be necessary.

12. The applicant is aged about 24 years and has no criminal antecedents. Moreover the mother and father of the victim have no objection if the applicant is released on bail. He is a permanent resident of the locality and there is no material to suggest that he would abscond or tamper with the prosecution evidence if released on bail.

13. The question of consent is not relevant in view of the age of the victim, who is admittedly a minor. However, the nature of allegations, delay in lodging FIR, and conduct of the parties post-incident, coupled with the stage of investigation, warrant consideration for bail.

14. Considering overall circumstances, and without expressing any opinion on the merits of the case, I am of the view that the applicant deserves to be released on bail with suitable conditions to ensure his presence during trial and to safeguard the interest of

the prosecution.

15. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.82 of 2024 registered with Mhasla Police Station for offences punishable under Sections 376(2)(j), 376(2)(n), 506 of the IPC and Sections 4, 6, 8, and 12 of the POCSO Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the Trial Court, subject to the following conditions:
 - (a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness, particularly family members of the deceased.
 - (b) The applicant shall report to the Mhasla Police Station once in three months, specifically on the 1st Monday, between 10:00 a.m. and 12:00 noon, until further orders.
 - (c) The applicant shall not leave the State of Maharashtra without prior written permission of the Trial Court.
 - (d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.
 - (e) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to

the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

16. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)