

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

Criminal Bail Application No.128 of 2025

Santosh Mahadev Chaudhari
Age: 40 yrs, Occ: Employed.
Residing at Anand Park,
Dhanori Road, Vishrantwadi, Pune.
(At present Yerwada Central
Prison, Pune)

... Applicant.

Vs.

1. The State of Maharashtra
(at the instance of the PI
Lonikand Police Station, Pune)

2. XYZ
(Mother of the victim)
(Copy to be served through
PP/IO)

... Respondents.

Mr Aniket Nikam i/by Sumit Patil for the applicant.
Mr PP Jadhav, APP for the respondent / State.
Mr Yuvraj Dhole for respondent No.2.
API Vijaya Vanjari Lonikand Police Station.

**Coram : R.N.Laddha, J.
Date : 13 November 2025.**

P.C. :

Heard Mr Aniket Nikam, learned Counsel appearing
on behalf of the applicant; Mr PP Jadhav, APP representing

the respondent/State, and Mr Yuvraj Dhole, the learned Counsel for respondent No.2.

2. By this application, the applicant seeks bail in connection with CR No.336 of 2024, registered at Lonikand Police Station, Pune, for offences punishable under Sections 376, 376(2)(n), 506 of the Indian Penal Code (IPC) and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offence Act, 2012 (POCSO).

3. It is the case of the prosecution that, in March 2024, the applicant, taking undue advantage of the victim's solitude and vulnerability, committed the offence of rape upon her, at that time when she was a minor aged about seventeen years and two months.

4. The learned Counsel appearing for the applicant, while asserting the applicant's innocence, has vehemently contended that the applicant has been falsely implicated in the present proceedings. It is submitted that the statutory ingredients of the offences invoked against the applicant are wholly inapplicable to the factual matrix of the case at hand.

5. Drawing attention to the prosecution's own narrative, it is submitted that the alleged victim was taken to KEM Hospital, Pune, on 6 April 2024. However, there is no documentary evidence on record to establish that any medical examination of the victim was conducted at the said hospital. No explanation has been offered by the prosecution for the absence of such medical papers, nor has any reason been assigned for the victim's return from the hospital without examination.

6. Further, as per the prosecution's version, the victim was subsequently taken to Sassoon Hospital on 8 April 2024, where the attending medical professionals initially requested the presence of an interpreter to facilitate communication. It is pertinent to note that both the First Information Report (FIR) and the victim's statement indicate that neither the victim nor the informant was conversant in Marathi. Despite this, their statements dated 6 April 2024 were recorded in Marathi, raising serious doubts about the voluntariness and accuracy of such statements.

7. The learned Counsel has further invited the attention of this Court to the medical records of Sassoon Hospital,

which reflect that the victim was diagnosed with mild intellectual retardation based on an IQ assessment conducted in 2018. This aspect, however, does not form part of the prosecution's case and has not been addressed in the investigation.

8. Reliance is placed on a letter dated 12 April 2024 issued by the Sub-Inspector, Lonikand Police Station, addressed to the Dean of Sassoon Hospital, wherein the police requested the hospital to appoint an interpreter for the victim's medical examination. Despite the medical officer's prior request for an interpreter, the prosecution failed to provide one. The medico-legal examination report, however, reveals that the victim was examined without the assistance of an interpreter, and that the said examination was conducted on 12 April 2024, although the victim had been admitted on 8 April 2024.

9. It is further submitted that the investigation in the present matter has been concluded and the charge sheet has already been filed before the competent court. There is no further recovery or discovery pending from the applicant. The applicant has been languishing in jail since 25 April

2024, and to date, the charges have not been framed. The trial is likely to be protracted, and continued incarceration of the applicant would amount to pre-trial punishment.

10. The applicant is willing to comply with any conditions that may be imposed by this Court, including the undertaking not to enter the territorial jurisdiction of Pune District until the conclusion of the trial.

11. On the other hand, the learned Additional Public Prosecutor representing the respondent/State and the learned Counsel appearing on behalf of respondent No.2, vehemently opposed the present application for bail. It is submitted that the offence is of a grave and heinous nature, carrying a punishment which may extend up to imprisonment for life. They contend that the mere fact of the applicant having been incarcerated since 25 April 2024, in and of itself, cannot be construed as a mitigating circumstance warranting enlargement on bail, particularly in light of the gravity of the allegations. It is urged that the material available on record, *prima facie* indicates the applicant's involvement in the commission of the offence.

12. This Court has given anxious consideration to the rival

contentions canvassed across the Bar and perused the records. It appears from the records that the victim was taken to KEM hospital on 6 April 2024, yet no medical examination was conducted, and no documentation has been placed on record to explain the same. The subsequent examination at Sassoon Hospital was delayed until 12 April 2024, despite the victim's admission on 8 April 2024. The medical officer had requested an interpreter to facilitate communication with the victim, who was not conversant in Marathi. Despite this, the examination was conducted without an interpreter, and the victim's statement was recorded in Marathi. Furthermore, the medical records of Sassoon Hospital indicate that the victim had been diagnosed with intellectual retardation based on an IQ assessment. This is, however, not the case of the prosecution. The prosecution's narrative reveals significant procedural lapses and inconsistencies. While the allegations against the applicant pertain to a serious offence under POCSO and IPC, it is pertinent to note that the investigation in the present matter has been concluded and the charge sheet has already been filed before the competent Court. No further recovery or custodial interrogation is

further warranted. The applicant has been languishing in jail since 25 April 2024, and the charges are yet to be framed. The trial will take its own time. The apprehension of the prosecution that the applicant may tamper with the evidence or influence the witnesses can be taken care of by imposing certain conditions. Furthermore, the learned Counsel for the applicant submits that the applicant will not enter the territorial jurisdiction of Pune District until the conclusion of the trial proceedings.

13. In the present case, the cumulative effect of the procedural lapses during the investigation, absence of medical corroboration, undertaking of the applicant to refrain from entering the territorial jurisdiction of Pune District until the conclusion of the trial, and the delay in trial proceedings, tilts the balance in favour of granting bail. Accordingly, the following order is passed :

ORDER

- (i) The applicant shall be released on bail in CR No.336 of 2024, registered at Lonikand Police Station, Pune, upon executing a PR Bond of Rs.25,000/- and furnishing one or

more sureties in the like amount to the satisfaction of the learned trial Court.

(ii) The applicant shall not tamper with the evidence or influence witnesses in any manner.

(iii) The applicant shall not enter the territorial jurisdiction of the Pune District, till the conclusion of the trial, save and except to attend the trial proceedings.

(iv) The applicant upon his release, shall furnish his residential address with proof and contact details to the Investigating Officer, and shall inform the concerned Officer of any change therein.

(v) The applicant shall attend the trial proceedings regularly and punctually, unless exempted by the

Court for a valid reason.

(vi) Any breach of the above conditions shall entail cancellation of bail.

14. The present application stands disposed of accordingly.

[R. N. Laddha, J.]