

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 349 OF 2025

Dharyappa Sadashiv Jirankalgi ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

Mr. Rushikesh Kale i/b Mr. Gurubala Birajdar, learned Advocate for the Applicant.

Mr. Amit A. Palkar, learned A.P.P. for the State/Respondent.

Mr. Akshay H. Bankapur, learned Advocate for Respondent No. 2.

CORAM : ASHWIN D. BHOBE, J.

DATE : 20th JUNE 2025.

PC. :

1. Heard Mr. Rushikesh Kale, learned Advocate for the Applicant, Mr. Amit Palkar, learned A.P.P. for the State/Respondent and Mr. Akshay Bankapur, learned Advocate for Respondent No. 2.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 320 of 2024 registered with Mangalwedha Police Station, District-Solapur for the offence punishable under Sections 363, 376(2)(N) and 376(3) of the Indian Penal Code, 1860 (“**IPC**” for short) and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. Mr. Rushikesh Kale, learned Advocate for the Applicant states

that the said crime has been registered as Special POCSO Case No. 33 of 2024 and is pending on the file of the Court of Special Judge, Pandharpur.

4. The abovesaid crime was registered on the basis of complaint received from the Respondent No. 2 (mother of the victim). Case of the prosecution is that the Applicant (Accused) under the promise of marriage, eloped with the victim, who was 15 years and 7 months of age. Applicant committed sexual assault on the victim. Hence, the abovesaid crime.

5. Applicant was arrested on 27th April 2024 and since then he is in jail.

6. Bail Application at Exhibit-3 in Special POCSO Case No. 33 of 2024 filed by the Applicant was rejected by the Special Judge, Pandharpur by order dated 9th October 2024.

7. Mr. Rushikesh Kale, learned Advocate for the Applicant submits that the Applicant has been falsely implicated in the crime by Respondent No. 2. He submits that the Applicant and victim are friends and there are no instances of any sexual assault. He submits that the statement of the victim recorded under Section 164 of the Criminal Procedure Code, 1973, does not support the case of prosecution or the complaint made by Respondent No. 2, on the basis of which the said crime was registered. He further points out to the medical report of victim placed on record, to submit that the medical report of victim also does not support the prosecution case. He submits that the charge-sheet is filed. He submits that the Applicant does not have criminal antecedents. He submits that

the Applicant is in jail for last almost 14 months.

8. Mr. Amit Palkar, learned A.P.P. for the State/Respondent submits that the offence charged against the Applicant is serious in nature, as the same is against a minor.

9. Mr. Akshay Bankapur, learned Advocate for Respondent No. 2 supports the stand taken by Mr. Amit Palkar, learned A.P.P.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. Records bear out that the present crime is registered on the basis of complaint filed by Respondent No. 2, who is the mother of victim. Complaint as filed by Respondent No. 2 makes allegation of sexual assault, committed by the Applicant on the victim. However, the statement of the victim recorded under Section 164 of Cr.P.C. does not support the complaint filed by Respondent No. 2. Medical report, which is placed on record, also does not support the allegations made by Respondent No. 2, of the victim being sexually assaulted.

12. Charge-sheet is filed in the present crime.

13. *Prima facie*, the material on record does not support the prosecution case. Custody of the Applicant pending the trial is therefore not warranted. Applicant does not have criminal antecedents. Applicant is therefore entitled to bail.

14. Criminal Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 320 of 2024 registered with Mangalwedha Police Station, District-Solapur for the offence punishable under Sections 363, 376(2)(N) and 376(3) of the IPC and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 on executing PR. Bond in the sum of Rs. 25,000/- (Rupees Twenty-Five Thousand Only) with one or two sureties in the like amount, to the satisfaction of the Special Judge, Pandharpur.
- b. Applicant shall co-operate in the conduct of the trial and shall regularly attend the hearing of Special POCSO Case No. 33 of 2024, pending before the Special Judge, Pandharpur, on each and every date when the said case will be listed, unless exempted.
- c. Applicant shall not contact or attempt to contact Respondent No. 2 or any of the family member of Respondent No. 2 or any witness in the present crime and shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade such person from disclosing the facts to the Court or to any Police personnel.
- d. Applicant shall not tamper with the evidence.

15. Criminal Bail Application No. 349 of 2025 stands disposed of in the abovesaid terms.

16. Mr. Akshay Bankapur, learned Advocate has appeared on behalf of Respondent No. 2 on the request of this Court. The Legal-aid Cell of this Court is directed to pay the fees of Mr. Akshay Bankapur, learned Advocate in terms of the Legal-aid Scheme.

[ASHWIN D. BHOBE, J.]

Digitally signed
by GITALAXMI
KRISHNA
KOTAWADEKAR
Date:
2025.06.21
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