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

BAIL APPLICATION NO.408 OF 2025

Rajendra Alias Raju Tanaji Yede	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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Mr. Pawan Mali for the applicant.

Ms. Shilpa G. Talhar, APP for the State-respondent No.1.

Mr. Abhishek Karnik for respondent No.2 (Appointed as Legal Aid Counsel).

Mr. Suryakant Doke, PSI, Borivali Police Station is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 31, 2025

P.C.:

1. Through this bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS), the accused seeks regular bail in Crime No. 510 of 2019 registered at Borivali Police Station. The case involves charges under Sections 377, 323 and 363 of the Indian Penal Code, 1860 and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act (POCSO Act).

2. According to the prosecution case, on 10th September 2019 at around 6:30 PM, the complainant (mother of the victim) was at work when her elder son Munna called her urgently to come

home. She immediately took an auto-rickshaw and reached home. Upon reaching, she found her younger son (the victim) sitting in a corner and crying. When she asked him what happened, the victim narrated the following incident:

3. The victim was playing in their chawl when the accused Raju Yede, who also lives in the same chawl, took him to the terrace of an empty building. There, the accused removed his own clothes and underwear and asked the boy to touch his private parts. When the boy refused, the accused took him to a room below the terrace, removed the victim's clothes, made him lie on the floor, and inserted his private part into the victim's anus. The accused attempted this act three times with some penetration. When the victim started screaming, the accused made him stand and rubbed his private parts on the victim's body, again asking him to touch his private parts. When the victim refused, the accused beat him. Eventually, the victim touched the accused's private parts as demanded, then pushed the accused away, picked up his clothes, and ran home crying loudly.

4. The victim first told everything to his brother Sameer who was at home. Sameer then informed their elder brother Munna about the incident. When the victim's father returned home, the mother informed him about what had happened. The father went to the accused Raju's house, caught hold of him, and called the police. Following this, the FIR was registered.

5. The learned counsel for the applicant has submitted that the accused was arrested on 11th September 2019. Despite nearly six

years having passed, charges have still not been framed against the accused. The prosecution has listed 21 witnesses in this case. From the court records (panchnama), it appears that the accused was not produced before the Court on several dates. Therefore, the delay in the case cannot be attributed to the accused. The counsel argues that considering the accused's fundamental right under Article 21 of the Constitution of India, he should be granted regular bail.

6. On the other hand, the learned Additional Public Prosecutor (APP) and the counsel appointed to represent the victim have opposed this bail application. They argue that the offence alleged against the applicant is very serious in nature. Since the victim child was only 9 years old at the time of the incident, considering the gravity and seriousness of the offence, the applicant should not be released on bail.

7. Having heard both sides and after carefully considering the facts and circumstances of the case, this Court finds merit in the applicant's prayer for bail for the following reasons:

8. The accused has been in custody since 11th September 2019, which means he has already spent approximately 6 years in jail. Despite this long period, charges have not even been framed yet. The prosecution has cited 21 witnesses, which indicates that the trial will take considerable more time to complete. Article 21 of the Constitution guarantees the right to life and personal liberty, which includes the right to speedy trial. Prolonged detention without trial violates this fundamental right.

9. From the court records, it is evident that the accused was not produced before the Court on several occasions. This shows that the delay in the proceedings is not attributable to the accused but appears to be due to systemic delays. The accused cannot be made to suffer indefinitely for delays not caused by him.

10. The Supreme Court has repeatedly held that bail is the rule and jail is the exception. The purpose of bail is to ensure the presence of the accused during trial, not to punish him before conviction. Considering the long period already spent in custody, continued detention would amount to pre-trial punishment.

11. The accused belongs to the same locality as the victim and has deep roots in the community. There is no material on record to suggest that he is a flight risk or that he will abscond if released on bail.

12. The investigation in this case appears to be complete, and the charge sheet has been filed. Therefore, there is no apprehension that the accused will tamper with evidence or influence the investigation.

13. While the Court acknowledges the serious nature of the allegations and the tender age of the victim, the interests of justice and the victim can be adequately protected by imposing appropriate conditions on the bail. The accused can be restrained from contacting the victim or his family members and from entering the locality where the victim resides.

14. In view of the above reasons and considering the totality of circumstances, this Court is of the opinion that the applicant has

made out a case for grant of regular bail.

15. Hence, the following order is passed.

- i) The bail application is allowed;
- ii) The applicant Rajendra Alias Raju Tanaji Yede is directed to be released on regular bail in connection with Crime No.510 of 2019 registered with Borivali Police Station for offences punishable under Sections 377, 323 and 363 of the Indian Penal Code, 1860; and Sections 4, 6, 8 and 12 of the POCSO Act, upon furnishing cash surety of Rs.15,000/- (Rupees Fifteen Thousand Only) and executing a Personal Recognizance (P.R.) Bond in the like amount, within a period of eight weeks from the date of this order, subject to the following conditions: :
 - a) The applicant shall report the Borivali Police Station on first Monday of every month between 10.00 a.m. to 12.00 noon, until further orders.
 - b) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
 - c) The applicant shall not enter the locality where the victim resides, and shall maintain a distance of at least 500 meters from the victim's residence.
 - d) The applicant shall not tamper with the evidence or attempt to influence any witness.
 - e) The applicant shall appear before the Trial Court on every date of hearing unless prevented by sufficient cause.

- f) The applicant shall not leave the territorial jurisdiction of the Trial Court without prior permission.
 - g) The applicant shall not indulge in any criminal activity during the pendency of the trial.
 - h) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.
16. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)