

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.419 OF 2025

Farukh Nanku Khan

.. Applicant

Versus

State of Maharashtra and Ors.

.. Respondents

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- Mr. Imtiyaz Patel, Advocate for Applicant.
- Mr. Sukanta A. Karmakar, APP for Respondent Nos.1 and 2.
- Mr. Dileep Satale, Advocate for Respondent No.3.
- Mr. Ranjit Yadav, First Informant.
- Mr. Harshal Suryavanshi, PSI, Jogeshwari Police Station.

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CORAM : MILIND N. JADHAV, J.

DATE : FEBRUARY 24, 2025

P.C.:

1. Heard Mr. Patel, learned Advocate for Applicant; Mr. Karmakar, learned APP for Respondent Nos.1 and 2 and Mr. Satale, learned Advocate for Respondent No.3.

2. This is an Application seeking Bail in connection with C.R. No.144 of 2017 registered with Jogeshwari Police Station for offences punishable under Sections 354, 363, 366A of the Indian Penal Code, 1860 (for short 'IPC') and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short '**POCSO Act**').

3. After hearing Mr. Patel on 17.02.2025, the following order was passed:-

"1. Heard Mr. Patel, learned Advocate for Applicant and Mr.

Karmakar, learned APP for State.

2. Mr. Patel would persuade me to consider the facts in the present case. He would submit that Applicant was granted bail on 08.01.2018 by the learned Trial Court. However, the Applicant did not adhere to bail conditions due to which he did not remain present on four occasions leading to issuance of non-bailable warrant against the Applicant. Once that order was issued, Applicant immediately surrendered on 31.12.2024. The principal offences are under the provision of IPC and POCSO Act. Mr. Patel would submit that the trial is yet to commence and charge is yet to be framed. He would persuade me to consider the fact that Applicant was released on bail, however due to his own dereliction, he could not attend the proceedings as he was a driver working in UP and therefore it led to his absence. In that view of the matter, he would persuade the Court to consider his Application for bail.

3. Considering the fact that present Application for bail is for the offences punishable under the provisions of IPC and POCSO Act, Applicant is directed to implead the first informant as Respondent No.3 to the present Application. Amendment to that effect is permitted to be carried out forthwith in presence of the Court. Re-verification stands dispensed with.

4. Copy of the present Application is directed to be served on the concerned Investigating Officer (IO). IO shall depute a responsible lady police officer to serve the copy on Respondent No. 3 and obtain her consent as to whether she requires legal representation and apprise the same through the learned APP on the next adjourned date after which further orders will be passed.

*5. Stand over to **24th February, 2025**. To be placed under the caption "**for Direction**".*

4. Today, Mr. Satale, learned Advocate appears for Respondent No.3. He would submit that Respondent No.3 being the victim is apprehensive since she is now married and residing in Uttar Pradesh and there could be probability that Applicant may attempt to influence the witnesses and tamper with evidence.

5. That apart, considering her safety he would submit that apprehension of Respondent No.3 – victim be noted by the Court.

Submissions made by Mr. Satale, learned Advocate for Respondent No.3 are considered.

6. Mr. Karmakar, learned APP appears for Respondent and would submit that before considering Application, this Court should take into cognizance the fact that Applicant has derelicted in not attending the Court summons on 5 different occasions between 30.09.2023 and 08.06.2024 which led to repeated adjournments and due to which charge could not be framed.

7. Mr. Karmakar is right because record shows that Applicant did not attend Trial Court on designated dates which was one of the condition precedent as stated in the bail order dated 08.01.2018, appended at page No.65 to the Application. However as informed to the Court and delineated in the previous order, the moment Applicant came to know about the trial after he was so informed by the sureties, he immediately surrendered on 21.12.2024.

8. Considering the fact that order dated 08.01.2018 has been passed on merits by the learned Trial Court, I do not propose to take any divergent view. In view of the dereliction of Applicant explanation given to that effect by Applicant is that he was in Uttar Pradesh at the then time due to Covid and working there as a Driver which is the reason as to why he did not realise about the status of the trial going on before the Trial Court. Today it is informed by Mr. Patel that

Applicant is residing in Jogeshwari, Mumbai. He would submit that Applicant would commit himself to the trial. I have no reason to disbelieve the same considering that he himself has surrendered. Considering the fact that Trial Court has applied its mind and granted bail on merits, the present Bail Application is allowed. However adhering to the request made by Advocate for Respondent No.3, directions can be passed to redress his grievance. In view of the above, Application stands allowed subject to following terms:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of the concerned Police Station every fortnight after his release for the first three months and thereafter as and when called;
- (iii) Applicant is directed not to enter the jurisdiction of District – Jaunpur of Uttar Pradesh State wherein Respondent No.3's marital and parental homes are situated till the end of the trial. This condition shall be strictly adhered to and followed by the Applicant;

- (iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (v) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vi) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;
- (vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;
- (viii) Any infraction of the above conditions shall entail prosecution to apply for cancellation of this order.

9. The aforesaid observations are *prima facie* on the basis of record of the case which have been argued before me and is an expression of opinion by this Court only for the purpose of enlargement of Applicant on bail and shall not influence the trial in the present case.

10. Bail Application is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

RAVINDRA
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AMBERKAR

Digitally signed
by RAVINDRA
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2025.02.24
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