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

BAIL APPLICATION NO. 462 OF 2025

Abdul Ahmed Maqbul Shaikh	... Applicant
V/s.	
State of Maharashtra	... Respondent

Mr. Anil Bansode for the applicant.

Ms. Lochan Chandka for respondent no.2 (appointed as Legal Aid).

Mrs. Shilpa Talhar, APP for respondent No.1-State.

Mr. Nitin Palande, PSI, Trombay Police Station.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 2, 2025

P.C.:

1. By way of the present bail application filed under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 ("BNSS" for short), the applicant seeks his release on regular bail in connection with Crime Register No. 03 of 2021 registered with Trombay Police Station. The offences alleged against the applicant are punishable under Sections 139, 64, and 64(3)(F)(N) of the Bhartiya Nyay Sanhita (corresponding to Sections 363, 376, and 376(3)(F)(N) of the Indian Penal Code), read with Sections 4, 6, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short).

2. The prosecution story, briefly put, is that the victim girl was

residing at Maharashtra Nagar, Mankhurd, Mumbai, along with her mother, brother and stepfather – the present applicant – for about four years prior to the incidents that allegedly occurred in 2020. The biological father of the victim had expired during her childhood, and thereafter her mother had married the applicant. It is the case of the prosecution that in the year 2020, the applicant, who is the stepfather of the victim, subjected her to forcible sexual intercourse on multiple occasions when no other family members were at home. Being distressed and frustrated by such behaviour, the victim on 2nd January, 2021, when sent by her mother to buy salt at about 7.00 p.m., left the house and walked towards Mankhurd Bridge. There, she came across a person by name Sandeep Shinde, who asked her to sit in his vehicle and then took her to a lodge at Chheda Nagar. It is alleged that the said co-accused had physical relations with her at the lodge where she stayed overnight. On the next morning, the co-accused left her near her house at Mankhurd. Being frightened, the victim instead went to her maternal aunt's house at Rafiq Nagar, Govandi. As questions started arising there regarding her sudden arrival, she left and went to stay at Shivaji Nagar in the house of an old neighbour for about twelve days. Thereafter, on 17th January, 2021, that neighbour persuaded the victim to return to her mother's house. However, on reaching there, they found the house locked. The neighbour then took the victim to Trombay Police Station, where it came to light that the mother of the victim had already lodged a missing complaint.

3. Learned Advocate for the applicant submitted that the

applicant was arrested on 18th January, 2021. He invited attention of this Court to the medical history recorded during the investigation and pointed out that the applicant has not been named therein. According to him, this indicates that some other unknown person, and not the applicant, was involved in the acts complained of. He further relied upon the evidence of the victim recorded before the Trial Court under Section 35 of the POCSO Act, where the victim was declared hostile. He submitted that even during her cross-examination, no material incriminating the applicant has surfaced. It was therefore urged that since the material evidence of the victim is already over and no incriminating circumstances have come on record against the applicant, the applicant deserves to be enlarged on bail.

4. Per contra, the learned APP, assisted by the Advocate appointed to represent the victim, opposed the application. They submitted that the allegations levelled are of a grave and serious nature, particularly because the applicant is none other than the stepfather of the victim. It was argued that if the applicant is released on bail, there exists a real possibility that he may tamper with the evidence or influence the witnesses, thereby affecting the course of the trial. They therefore prayed for rejection of the present application.

5. I have carefully considered the rival submissions and perused the material placed on record. The allegations against the applicant are undoubtedly serious in nature. However, it is a settled principle of criminal jurisprudence that at the stage of bail, the Court is not required to enter into a detailed appreciation of

evidence, but only to assess whether there are reasonable grounds to continue the applicant's custody pending trial.

6. In the present case, the applicant has been in custody since 18th January, 2021. The evidence of the victim, who is the star witness in this case, has already been recorded before the Trial Court. It is not in dispute that the victim has been declared hostile and even in her cross-examination, no material has come on record to directly implicate the applicant. Thus, the apprehension of the prosecution that the applicant may influence the victim does not survive, since her substantive evidence is already completed.

7. The medical papers, on which the prosecution relies, also do not specifically name the applicant as the assailant. Though there is a general allegation that the applicant, being the stepfather, misbehaved with the victim in the year 2020, the core of the prosecution case rests upon the testimony of the victim. Since her evidence has not supported the prosecution and the material witnesses are already examined, further incarceration of the applicant will not serve any fruitful purpose.

8. It is also relevant to note that the trial is likely to take considerable time for its conclusion. The right to liberty guaranteed under Article 21 of the Constitution of India requires that unless there are compelling reasons, a person should not be kept behind bars for an indefinite period when the evidence against him is shaky and does not inspire confidence at this stage.

9. Considering the totality of the circumstances, this Court is of the view that the applicant has made out a case for grant of bail.

The apprehensions expressed by the prosecution can be taken care of by imposing appropriate conditions.

10. 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. 03 of 2021 registered with Trombay Police Station, upon furnishing cash surety of Rs.25,000/- (Rupees Twenty Five Thousand only).
- iii) Within a period of 8 weeks from the date of release of the applicant on regular bail, he shall furnish 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 Trombay Police Station once in three month, specifically on the 1st day of each month, between 10:00 a.m. and 12:00 noon, until further orders.
 - (c) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra.
 - (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.

11. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)