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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.627 OF 2025

Rajkumar Yesudasan ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondent

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GANESH
KULKARNI

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Mr. Tanveer Nizam i/by Mariam T. Nizam for the applicant.

Ms. Supriya Kak, APP for respondent No.1-State.

Mr. Rohan Dilip Kaiche i/by Sussan Mathew for respondent No.2-victim.

Mr. Swapnil Mane, PSI, NRI Sagari Police Station, Navi Mumbai, is present.

CORAM : AMIT BORKAR, J.

RESERVED ON : 25 AUGUST, 2025

PRONOUNCED ON : 3 SEPTEMBER, 2025

P.C.:

1. The applicant before this Court is an accused in Special Case No.206 of 2022 registered with NRI Sagari Police Station, Navi Mumbai, for offences punishable under Sections 323, 354, 354A of the Indian Penal Code, Section 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), and Sections 75 and 82 of the Juvenile Justice (Care and Protection of Children) Act, 2015. By way of this application, the applicant seeks his enlargement on regular bail.

2. The prosecution case, as unfolded through the complaint lodged by the informant, Smt. Pallavi Sandesh Jadhav, Protection Officer attached to Women and Child Development Department and Maharashtra State Child Protection Cell, Thane, is that on 24.06.2022, an information was received from Yuva Child Line, Navi Mumbai, regarding exploitation of children housed in an orphanage/home known as Bethel Gospel Trust, situated at Seawood, Navi Mumbai. The said information was passed on to the office of District Women and Child Development Officer, Thane as well as to the Child Welfare Committee, Thane.

3. Acting on such information, the informant, along with Smt. Rani Bhaisane, President of Child Welfare Committee, Thane, Smt. Archana Karode, members of the Committee, and staff of Yuva Child Line, proceeded to visit the said orphanage/home. On inspection, they found 45 children, 12 girls and 33 boys, between the age group of 3 to 18 years, kept in highly unhygienic and neglected conditions. The children were lodged in two small rooms, a hall and a kitchen, which also simultaneously housed elderly persons, homeless persons, mentally challenged persons and even those living on the street.

4. During this inspection, the applicant identified himself as the Pastor of the Church running the said home. When he was asked to produce the necessary permissions and relevant documents authorising him to run such orphanage/home, he failed to produce any. As a result, the Department of Women and Child Development immediately rescued the 45 children from the said premises and placed them in different remand homes for their safety and

protection.

5. It is further the case of the prosecution, as narrated by the informant, that while interacting with the rescued children, a girl child aged about 14 years (hereinafter referred to as “S”) disclosed before the Child Welfare Committee that on two to three occasions, the applicant had applied Vicks Vaporub on her throat and chest. Though she did not elaborate further at that time and appeared visibly stressed, she was thereafter sent along with her mother.

6. Subsequently, on 10.08.2022, the said girl “S” again appeared before the Child Welfare Committee at Ulhasnagar, District Thane. On this occasion, she disclosed in greater detail that the applicant had, on several occasions, forcibly applied Vicks Vaporub on her upper body including her chest and stomach. When she resisted, he physically assaulted her. She narrated that such incidents occurred on nearly 10 to 12 occasions. She further alleged that the applicant used to call girls at night and apply oil on their bodies.

7. When she complained to the applicant’s wife about such inappropriate conduct, the wife initially quarrelled with the applicant. However, the applicant defended himself by claiming that he was a “man of God” and what he did was with a “good intention”. His wife, thereafter, calmed down. The child “S” also narrated an incident where, when she tried to avoid the applicant by entering into the bathroom, the applicant told her he would switch off the lights. When she threatened to inform his wife, he

assaulted her.

8. Based on these disclosures, the present FIR came to be registered against the applicant, alleging commission of sexual assault and cruelty to children.

9. Learned Advocate appearing for the applicant has taken this Court through the record and submitted that there are serious inconsistencies in the prosecution case. He pointed out that according to the prosecution, the alleged incident is said to have taken place on 1st July, 2022. However, the material collected during investigation itself shows that the victims were not even present at the orphanage/home on that date, as all of them had travelled to Rajasthan. Thus, according to him, the very foundation of the allegation falls to the ground.

10. It was further argued that all three First Information Reports registered in connection with the present allegations are almost identical and appear to be “copy-paste” versions of each other. Not only this, but all three medical reports of the victims and their statements recorded under Section 164 of the Code of Criminal Procedure were prepared on the very same day. This, according to the learned Advocate, casts serious doubt on the credibility and independent nature of the investigation.

11. Learned Advocate for the applicant also drew attention to the fact that the parents/guardians of the victim girls themselves have filed affidavits before the trial Court stating that the applicant has not committed any wrongful act against their children. He submitted that even the medical reports do not support the case of

the prosecution and fail to corroborate the allegations of sexual assault.

12. He further highlighted that although the initial complaint was received on 24th June, 2022, the raid at the orphanage/home was carried out only on 5th August, 2022, and yet the First Information Report was registered even later, on 12th August, 2022. According to him, this unexplained delay in registration of the offence is fatal to the prosecution case and shows that the matter has been manipulated.

13. It was also urged that the initiation of criminal proceedings against the applicant is not bona fide but is a consequence of his refusal to pay an extortion amount allegedly demanded by certain politicians. He pointed out that on 21st August, 2022, a press conference was conducted to bring to public notice the false nature of the case and the extortion attempts made by the Child Welfare Committee.

14. Learned Advocate further submitted that when the applicant's son attempted to record evidence of torture and beating at the police station, the police confiscated his mobile phone and thereafter falsely implicated him by registering FIR No. 237 of 2022. Not stopping at that, three more false FIRs, being FIR Nos. 218, 219 and 220 of 2022, were also registered against the applicant on 2nd September, 2022, in order to harass and pressurize him and his family members.

15. He submitted that in the present case, charges are yet to be framed and the trial has not even commenced. The applicant is

already in custody for more than three years. It was urged that the offences alleged under FIR No. 206 of 2022 carry a maximum punishment of five years, and therefore, continued incarceration of the applicant would be harsh, unjust, and disproportionate, particularly when the trial is not likely to conclude in the near future.

16. Per contra, learned APP strongly opposed the prayer for bail and submitted that the allegations against the applicant are grave in nature, involving sexual assault on minor girls sheltered in the orphanage/home. She submitted that pursuant to the raid conducted on 05.08.2022 at Bethel Gospel Aashram, as many as 45 children were rescued and shifted to other children's homes for their safety. During the enquiry conducted with the children, the victim girl "ABC" specifically disclosed that the accused, who was functioning as a Pastor in the Aashram, used to apply Vicks on her chest and neck and whenever she resisted, he would physically assault her.

17. Learned APP further pointed out that the statement of the complainant, Smt. Pallavi Jadhav, Protection Officer, was recorded before the learned Magistrate on 14.09.2022. She also brought to the notice of this Court that in Habeas Corpus Writ Petition No. 3326 of 2022, filed by the mother of the victim for seeking custody from the Child Welfare Committee, the victim was produced before the Division Bench on 19.09.2022. On that occasion, the victim handed over a handwritten note to the Learned Judges, wherein she expressed her desire to give a more detailed statement before the learned Magistrate. She also explained that earlier she was

hesitant and uncomfortable as her mother was present when her first statement under Section 164 of the Cr.PC. was recorded.

18. It was further submitted that the Division Bench, while considering the Habeas Corpus Petition, directed that the victim's statement be recorded afresh before the learned Magistrate, ensuring that her mother was not present at the time of such recording. In compliance with those directions, the victim's statement was recorded afresh on 23.09.2022, wherein she gave a detailed account of the acts committed by the accused not only on her but also on other girls residing in the Aashram. In her statement, she consistently narrated that the accused used to apply oil and Vicks on her body and on the bodies of other girls.

19. Learned APP further submitted that the medical examination of the victim lends corroboration to her version. The medical records reflect the presence of an abrasion on the left upper quadrant of the breast of the victim. This finding, according to her, is consistent with the statement of the victim that the accused used to assault her whenever she resisted his acts.

20. The learned APP further pointed out that the statement of one Chandrabhaga Sanjappa, who was residing in the same Aashram, was recorded under Section 161 of the Cr.PC. on 03.10.2022. In her statement, the witness disclosed that the victim had confided in her that the accused had touched her private parts and had asked her to apply oil on herself. When she refused, the accused continued troubling her. Thereafter, on 04.10.2022, the said witness gave her statement before the learned Magistrate

under Section 164 of the Cr.P.C., wherein she confirmed that the accused used to inappropriately touch the girls and apply oil to them, and he also used to beat them. She further disclosed that the accused had threatened her and even took photographs of one of the girls while bathing.

21. Learned APP also submitted that similar versions have come forward in other bail applications connected with the same Aashram, where statements under Section 164 of the Cr.P.C. of the victim girls as well as their medical history given to the doctors reflect that the accused used to apply oil on their breasts and head. According to her, these consistent statements of the victims, coupled with the medical records, prima facie support the prosecution case.

22. She further submitted that the applicant is not an ordinary person but a Pastor, who is looked upon as a religious head by the entire community of the parish, and therefore, his position in society carries great influence. Given the nature of allegations and the position of trust reposed in him, granting bail to such a person would not only undermine the faith of the community in religion but also weaken the confidence of the people in the rule of law. His societal status coupled with the alleged misconduct are therefore crucial factors that must weigh against his release.

23. Learned APP lastly pointed out that though the parents of some victims have filed affidavits stating that no such incident of sexual assault or ill-treatment by the accused had taken place, such affidavits cannot be relied upon in light of the consistent and

detailed statements of the victims themselves, supported by medical and independent witness evidence. She submitted that at this stage, when the material on record prima facie establishes the applicant's involvement, releasing him on bail would seriously prejudice the ongoing trial and may also affect the victims' sense of safety and justice.

24. I have carefully considered the rival submissions and perused the material placed on record. The allegations against the applicant are undoubtedly serious in nature. The prosecution case is that minor girls sheltered in the Aashram were subjected to acts of sexual assault and cruelty. There are statements recorded under Section 164 of the Cr.P.C., medical reports, and witness statements which, at this stage, lend prima facie support to the case of the prosecution. Ordinarily, in cases of such nature, the Court would exercise extreme caution before considering release of the accused on bail.

25. However, at the same time, it is equally well settled that the right to personal liberty under Article 21 of the Constitution of India cannot be overlooked. The principle that "bail is the rule and jail is the exception" has been emphasised in catena of decisions of the Supreme Court. Pre-trial incarceration cannot be permitted to assume the character of punishment.

26. In the present case, it is an admitted position that the applicant has been in custody for a period of more than three years. The charges in the case are yet to be framed, and the trial has not even commenced. The offences alleged under FIR No. 206

of 2022, particularly under Section 8 of the POCSO Act and allied provisions, carry a maximum punishment of five years. Thus, the applicant has already undergone incarceration for a period close to the maximum sentence prescribed by law.

27. The Supreme Court in *Hussain v. Union of India* [(2017) 5 SCC 702] has observed that speedy trial is a fundamental right flowing from Article 21 of the Constitution and that where under-trial prisoners remain incarcerated for long periods without trial, Courts must step in to secure their liberty.

28. In the facts of the present case, though the allegations are serious, the delay in commencement of the trial cannot be ignored. The applicant has already been in custody for over three years, which is disproportionate considering the maximum punishment prescribed for the offence. If the applicant is continued to be incarcerated any further, there is a real likelihood that he may undergo almost the entire sentence even before trial concludes. Such pre-trial punishment would clearly offend the guarantee under Article 21 of the Constitution.

29. It is true that the prosecution has opposed bail on the ground that the applicant is a Pastor and a person of influence in society, and that his release may affect public confidence. While these apprehensions are not unfounded, they can be adequately safeguarded by imposing stringent conditions while granting bail. This Court is of the considered view that such conditions can balance the interest of the prosecution as well as protect the fundamental right of liberty of the applicant.

30. In view of the above discussion, I am satisfied that the continued incarceration of the applicant would amount to denial of his fundamental right to personal liberty. Having regard to the period already undergone by him in custody, the stage of the trial, and the maximum sentence prescribed for the offences, this Court finds it just and proper to release the applicant on bail, subject to appropriate conditions.

31. In the result, the following order is passed:

(i) The applicant–accused is directed to be released on bail in connection with Special Case No.206 of 2022 (Crime No. 206 of 2022) registered with NRI Sagari Police Station, Navi Mumbai, for the offences punishable under Sections 323, 354, 354A of the Indian Penal Code, Section 8 of the Protection of Children from Sexual Offences Act, 2012 and Sections 75 and 82 of the Juvenile Justice (Care and Protection of Children) Act, 2015, on his executing a personal bond of ₹25,000/- (Rupees Twenty-Five Thousand only) with one or two solvent sureties in the like amount to the satisfaction of the learned Trial Court.

(ii) The applicant 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 them from disclosing such facts to the Court or to any police officer.

(iii) The applicant shall not attempt to contact the victim children or their families in any manner whatsoever.

(iv) The applicant shall report to the concerned police station on the first Monday of every month between 11:00 a.m. and 1:00 p.m. until further orders.

(v) The applicant shall not leave the jurisdiction of Navi Mumbai without prior permission of the learned Trial Court.

(vi) The applicant shall furnish his permanent residential address and contact details to the Investigating Officer as well as to the learned Trial Court, and shall intimate any change therein forthwith.

(vii) The applicant shall attend the trial on every date fixed, unless exempted by the learned Trial Court.

(viii) In case of breach of any of these conditions, the prosecution shall be at liberty to move for cancellation of bail.

32. It is made clear that the observations made herein are only for the purpose of deciding this bail application. The learned Trial Court shall proceed with the trial uninfluenced by any of the observations made in this order.

33. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)