

AGK

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.628 OF 2025
WITH
BAIL APPLICATION NO.629 OF 2025
WITH
BAIL APPLICATION NO.630 OF 2025

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

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

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

Ms. Mallika Sharma for respondent No.2 – victim in BA/629/2025.

Mr. Rohan Dilip Kaiche i/by Sussan Mathew for respondent No.2-victim in BA/628/2025 & 630/2025.

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 present applications have been filed by the applicant seeking his enlargement on regular bail. The applicant is accused in Special Case No.219, 220 and 218 of 2022 (Crime Nos.206 of 2022) registered with NRI Sagari Police Station, Navi Mumbai for offences punishable under Sections 354, 354A of the Indian Penal

Code, Sections 8, 9(o), 9(p), 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and Sections 75, 82 of the Juvenile Justice (Care and Protection of Children) Act, 2015. Since the allegations in all three FIRs are substantially similar, except for the difference in the age of the victims, the allegations in FIR No. 219 of 2022 are being referred to for the sake of convenience.

2. As per the prosecution case, the informant, Shri Ramkrushna Bhimrao Reddy, who is serving as District Child Protection Officer, Thane, received an alert on 24/06/2022 from Yuva Child Line, Navi Mumbai. The alert informed the District Women and Child Development Office, Thane as well as the Child Welfare Committee, Thane, about exploitation of children allegedly taking place in an orphanage/home being run under the name of Bethel Gospel at Seawood, Navi Mumbai. The information further disclosed that one minor girl aged about 13 to 14 years, residing at the said orphanage/home, had even been forced to undergo an abortion.

3. Acting upon the said information, the District Women and Child Development Officer directed the informant, along with Child Protection Officer Smt. Pallavi Jadhav, the President of the Child Welfare Committee Smt. Rani Bhaisane, other members of the Child Welfare Committee, and staff members of Yuva Child Line, to immediately visit the said premises. Accordingly, the team visited Bethel Gospel Trust at Seawood, Navi Mumbai. Upon inspection, it was noticed that 45 children (12 girls and 33 boys), aged between 3 years to 18 years, were residing there in unhygienic and overcrowded conditions. The children were made

to stay in two small rooms, a hall and a kitchen, along with elderly persons, the homeless, mentally challenged individuals and persons living on the street.

4. At that time, the applicant identified himself as the Pastor of the Church. When he was called upon to produce the required documents authorising him to run such an orphanage/home, he failed to produce any valid documents. In these circumstances, the Women and Child Development Department immediately rescued all 45 children from the said premises and placed them in different remand homes, noting that the children were found to be neglected.

5. The allegations further reveal that while inquiry was being conducted with the rescued children, a 14-year-old girl, referred to as 'S', disclosed before the Child Welfare Committee, Thane, that on two to three occasions, the applicant had applied Vicks VapoRub on her throat and chest. She did not reveal further details at that stage and appeared to be under stress. She was thereafter sent back to her mother. On 10/08/2022, the same child 'S' once again approached the Child Welfare Committee at Ulhasnagar, District Thane, and on that occasion, she reiterated her ordeal. Based on this disclosure, Child Protection Officer Smt. Pallavi Jadhav lodged a report with NRI Sagari Police Station, and accordingly, Crime No. 206 of 2022 came to be registered under Sections 354, 354A of the IPC, Section 8 of the POCSO Act, and Sections 75, 82 of the Juvenile Justice Act.

6. The informant further alleged that by 27/08/2022, about 11 children had been enquired with by the Child Welfare Committee. Though the children appeared to be willing to say something, they did not disclose much. Thereafter, at the request of the Committee, the Programme Manager of NGO Prerana interacted with the children. During such interaction, one 10-year-old girl 'R' disclosed that she and her seven cousin sisters were brought to Seawood, Navi Mumbai, by their uncle from Rajasthan, and they were admitted into the hostel/orphanage run by Bethel Gospel Church. She further narrated that a few days after their admission, while she was asleep in the hostel, the applicant, Pastor of the Church, applied oil on her body, chest, forehead, neck and stomach on two separate occasions. Based on this report, the present offence came to be registered.

7. Learned Advocate for the applicant submitted that the prosecution has alleged that the incident took place on 1st July 2022. However, according to him, the material placed on record clearly indicates that the victims were not even present at the alleged spot of incident on that day, as all of them were in Rajasthan. He pointed out that the allegations in all three First Information Reports appear to be stereotyped, as if copied and pasted, without any independent narration of facts. He further submitted that all three medical reports as well as the statements of the victims recorded under Section 164 of the Code of Criminal Procedure were prepared on the same day, which raises serious doubts about the genuineness of the prosecution case. According to him, even the parents and guardians of the alleged victim girls

have filed affidavits before the trial Court, categorically stating that the applicant has not committed any offence. The medical reports, too, do not support the case of the prosecution.

8. It was further argued that although a complaint of the alleged incident was received as early as on 24th June 2022, the raid was conducted on 5th August 2022, and yet the First Information Report came to be registered only on 12th August 2022. This unexplained delay, according to the learned counsel, renders the prosecution case highly doubtful. He further contended that initiation of prosecution against the applicant is nothing but a result of his refusal to pay the illegal extortion amount demanded by certain political persons.

9. Learned Advocate also pointed out that on 21st August 2022 a press conference had to be conducted to bring to light the false case and extortion attempt by the Child Welfare Committee. He further submitted that when the applicant's son attempted to record evidence of torture and beating at the police station, the police, instead of acting fairly, confiscated his mobile phone and lodged a false FIR No. 237 of 2022 against him. Not only that, three more false FIRs bearing Nos. 218, 219 and 220 of 2022 were subsequently filed on 2nd September 2022, with the sole intention of pressurizing the applicant and his family members.

10. The learned Advocate emphasized that charges are yet to be framed and the trial has not even commenced. In the meantime, the applicant has already undergone incarceration for more than three years. He submitted that in relation to FIR Nos. 218, 219 and

220 of 2022, the punishment extends up to seven years only. Considering that the applicant has already suffered imprisonment for a period exceeding three years, much prior to the conclusion of trial, the applicant deserves to be released on bail.

11. Learned APP, opposing the application, submitted that pursuant to a raid conducted at Bethel Gospel Aashram on 05/08/2022, several children were rescued and thereafter shifted to another children's home. During the course of inquiry with the children, one of the victims, namely ABC, disclosed that the accused, who was acting as a Pastor of the said Aashram, used to apply Vicks on her chest and neck, and whenever she resisted, he would beat her. The statement of the complainant, Smt. Pallavi Jadhav, was recorded before the learned Magistrate on 14/09/2022.

12. The learned APP further pointed out that on 19/09/2022, during the hearing of a Habeas Corpus Writ Petition being W.P. No. 3326 of 2022, filed by the mother of the victim for her custody from the Child Welfare Committee, the victim was produced in the chambers of the Division Bench. At that time, the Division Bench also perused a handwritten note prepared by the victim. In that note, the victim expressed that she wished to give a detailed statement before the learned Magistrate, and further explained that she had earlier felt uncomfortable in narrating the complete truth, as her mother was present when her first statement under Section 164 of the Cr.P.C. was recorded.

13. The learned APP submitted that the Division Bench had, therefore, directed that the statement of the victim be freshly recorded by the learned Magistrate, with a specific direction that the mother of the victim should not be present nearby. In compliance of the said direction, the statement of the victim was again recorded before the learned Magistrate on 23/09/2022. In this statement, the victim gave a detailed narration of the acts committed by the accused upon her as well as other girls in the Aashram. She consistently reiterated that the accused used to apply oil/Vicks on her body as well as on the bodies of other girls residing in the Aashram.

14. It was further pointed out that the medical records of the victim support the prosecution case. The medical papers reflect an abrasion on the left upper quadrant of the breast of the victim, which corroborates her version in her statements under Sections 161 and 164 of the Cr.P.C., wherein she had stated that the accused used to assault her whenever she resisted his actions.

15. The learned APP also placed reliance upon the statement of one witness, namely Chandrabhaga Sanjappa, who was residing in the same Aashram. Her statement under Section 161 of the Cr.P.C. was recorded on 03/10/2022. She stated that the victim had informed her that the accused had touched her private parts and had also asked her to apply oil on his body, which she refused. Her statement was again recorded under Section 164 of the Cr.P.C. on 04/10/2022 before the learned Magistrate, wherein she categorically stated that the accused used to inappropriately touch girls, apply oil on their bodies, trouble the victim and hit the girls

in the Aashram. She further revealed that the accused had even threatened them and had taken photographs of a girl while she was bathing.

16. Learned APP contended that even in other bail applications arising out of connected offences, the statements of the victim recorded under Section 164 of the Cr.P.C., together with the history given to the doctor that the accused used to apply oil on the breast and on the head, are consistent and support the prosecution version.

17. The learned APP strongly opposed the prayer for bail by pointing out that the applicant is a Pastor and, therefore, holds a position of trust and respect in the eyes of the entire parish community. He is looked upon as a religious head, and thus, his alleged conduct has a wider impact on the faith of the people, not only in the religion but also in the rule of law. According to her, in such a background, if bail is granted to the applicant, it will have serious repercussions on the faith of society at large. His high social status, when coupled with the gravity of the allegations and the consistent statements of the victim and other witnesses, are relevant and crucial aspects which must weigh against his release.

18. She also pointed out that though the parents of the victims have filed affidavits denying any incident of sexual assault or ill-treatment at the hands of the applicant, such affidavits must be considered in the background of the victim's consistent statements before the Magistrate and the corroborative medical evidence, which prima facie support the case of the prosecution.

19. Learned APP further submitted that the statutory presumption under Section 114(B) of the Indian Evidence Act, 1872 is attracted in the present case. The said provision has been inserted by way of an amendment with a clear legislative intent to strengthen the evidentiary value of the victim's testimony in cases of sexual harassment and outraging of modesty. Section 114(B) provides that when the question before the Court is whether a person has committed an offence under Sections 354, 354-A, 354-B, 354-C, 354-D, 509, 509-A or 509-B of the Indian Penal Code, and the victim deposes before the Court that she has been subjected to sexual harassment, her modesty was outraged, she was disrobed, her privacy was intruded, or she was otherwise sexually harassed, then the Court may, unless the contrary is proved, presume that such offence has indeed been committed by the accused.

20. The learned APP submitted that this statutory presumption is a recognition of the fact that in offences of sexual nature, direct evidence is often difficult to come by, and therefore, the testimony of the victim assumes great significance. It shifts the initial burden on the accused to rebut the presumption by placing material before the Court. In the present case, the victim girls have consistently stated that the applicant had applied Vicks or oil on their chest, neck and other body parts and would also beat them if they resisted. These statements, recorded before the learned Magistrate under Section 164 of the Code of Criminal Procedure, carry strong evidentiary value and, by operation of Section 114(B), raise a presumption against the applicant.

21. It was further argued that unless the accused is able to show circumstances or material to dislodge this presumption, the Court is bound to treat the victim's testimony as reliable at this stage. The law thus recognises the voice of the victim as sufficient to raise a presumption of guilt, subject of course to the right of the accused to rebut it during trial. Therefore, the consistent statements of the victims in the present case, when read with the statutory presumption under Section 114(B), fortify the prosecution case at this stage and weigh against the grant of bail.

22. I have heard the submissions of the learned counsel for the applicant and the learned APP for the State. I have also carefully gone through the FIRs, statements of victims and witnesses, and the medical material on record.

23. The allegations levelled against the applicant are indeed grave and cannot be treated lightly. The record shows that a raid was conducted at Bethel Gospel Aashram on 05/08/2022, during which about 45 children were found to be residing in unhygienic and neglected conditions. These children, ranging from the age of 3 years to 18 years, were kept in cramped rooms along with elderly and mentally challenged persons, thereby exposing them to a highly unsafe environment. The applicant, who was present on the spot, identified himself as the Pastor in charge of the institution. However, when he was specifically asked to produce the necessary authority or licence for running such an establishment, he failed to produce any valid documents.

24. The matter becomes more serious when one turns to the disclosures made by the children. During the inquiry conducted by the Child Welfare Committee, certain victim girls narrated that the applicant had, on more than one occasion, applied Vicks or oil on their chest, neck and other sensitive parts of the body. They also disclosed that whenever they resisted such acts, the applicant would beat them. These disclosures are not isolated or vague in nature; rather, they appear consistent across the statements of different victim girls recorded under Section 164 of the Code of Criminal Procedure.

25. At this stage, while the Court is not expected to embark upon a detailed evaluation of evidence as if conducting a trial, it must consider whether the material collected discloses a prima facie case. The consistent statements of victim children, who are minors and therefore particularly vulnerable, supported by medical papers reflecting injuries, cannot be brushed aside. On the contrary, they lend sufficient support to the prosecution's version at this stage.

26. The applicant, being the Pastor of the Aashram, stood in a position of authority, trust and moral responsibility. Such a position carries with it an obligation to protect and guide children in his care. The allegations, however, suggest a complete misuse of that position. The very fact that minor girls residing in the Aashram have spoken in one voice against him adds weight to the prosecution case. The social impact of such offences, where children from disadvantaged backgrounds are exploited by a person who is supposed to protect them, is an important factor which the Court cannot lose sight of.

27. The reliance placed by the learned APP on Section 114(B) of the Indian Evidence Act also needs to be considered. It is true that Section 114(B) provides for a presumption in cases involving offences under Sections 354, 354-A, 354-B, 354-C, 354-D, 509, 509-A and 509-B of the Indian Penal Code, where the Court may, on the basis of the victim's deposition, presume that the offence has been committed unless the contrary is proved. However, it is required to be noted that Section 114(B) was inserted in the Indian Evidence Act by way of a State Amendment made by the State of Chhattisgarh. The said provision has not been made applicable to the State of Maharashtra. Therefore, the presumption contemplated under Section 114(B) is not available for consideration in the present case.

28. Thus, the seriousness of the allegations, the vulnerability of the victims, and the position of dominance exercised by the applicant are factors which strongly weigh against the applicant at the present stage.

29. The statement of witness Chandrabhaga Sanjappa, who lived in the same Aashram, also corroborates the accounts of the victim girls. She has stated that the applicant used to inappropriately touch girls, apply oil to them, and even take photographs of a girl while bathing. Such consistent statements recorded under Section 164 of the Cr.P.C. cannot be brushed aside at this stage.

30. The learned counsel for the applicant has urged that there are several inconsistencies in the prosecution case, that affidavits filed by parents of the victims support the applicant, that there is

unexplained delay in lodging of FIRs, and that the applicant has remained in custody for more than three years though maximum punishment under some of the offences is up to five years.

31. At the stage of bail, however, this Court is not required to weigh the material evidence as if in a trial. The Court has only to see whether there is a prima facie case, the seriousness of the allegations, and the possibility of influencing witnesses if the accused is enlarged on bail. Here, the allegations relate to sexual offences against children in an orphanage where the applicant was in a position of authority and trust. The victims are all minors and highly vulnerable. The consistent statements of the victims before the Magistrate, supported by medical and witness evidence, create a strong prima facie case against the applicant.

32. It is true that the applicant has been in custody for more than three years. Ordinarily, prolonged pre-trial incarceration is a factor favouring release. However, in cases of this nature, where minor children are the victims and their evidence is yet to be fully recorded, releasing the accused at this stage would carry a real risk of influencing or intimidating the witnesses. The affidavits filed by parents cannot outweigh the direct and consistent statements of the victims themselves.

33. In view of the seriousness of the allegations, the position of trust misused by the applicant, and the stage of the trial, this Court does not find it appropriate to release the applicant on bail at present.

34. At the same time, the right of the applicant to a speedy trial under Article 21 of the Constitution cannot be overlooked. Therefore, the trial Court is directed to record the evidence of all victim girls at the earliest, and in any case within a period of four months from the date of receipt of this order. Upon completion of such evidence, it will be open for the applicant to move the trial Court for bail afresh, and the trial Court shall consider the same on its own merits, uninfluenced by the present order.

35. 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.

36. The bail application is disposed of.

(AMIT BORKAR, J.)