

Shivgan

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 1000 OF 2025**

Abhishek Madan Medwaz ...Applicant
Versus
State Of Maharashtra and Anr. ...Respondents

Mr. Raj Dilip Dali, *for the Applicant.*
Mr Yogesh Y Dabke, *APP for the State-Respondent.*
Mr Lengare, *API attached to Kasarwadavali Police Station,*
present.

CORAM Dr. Neela Gokhale, J.
DATED: 12th November 2025

PC:-

1. The Applicant seeks his release on bail in connection with CR No.56 of 2023 dated 16th February 2023 registered with the Kasarvadavali Police Station, Thane, for the offences punishable under Sections 376-D, 376(2)(n), 323 and 506(2) of the Indian Penal Code, 1860 and Sections 4, 5 (g), 5(l) and 6 of the Protection of Children From Sexual Offences Act, 2012.

2. There are in all 2 victims and 3 accused persons. At the time of incident, both the victims were of 17 and ½ years of age; the Applicant was 19 years of age; the Co-accused, Hrutik and Bunty were 23 and 19 years of age, respectively. The Applicant is arrested on 16th February 2023.

3. The facts of the case, in brief, are that:-

3.1 The Victims were friends and they had requested a hand loan from the Accused No.1-Hrutik. Under the guise of giving money to the Victims, the Co-accused- Hrutik and Bunty took them to a place near Dosti Desire building, Ghodbunder Road, Thane. It is further alleged that the Co-accused sexually assaulted the Victims and also threatened and beat them up with fist blows and kicks. There is also an allegation that the Accused No.1-Hrutik took pictures of one of the Victims in a completely nude state and threatened her to make it viral. It is further alleged that after sexually assaulting the Victims turn by turn, the Co-accused called some other person on their mobile phones and it is alleged that the Applicant came to the

spot and was invited to sexually assault Victim No.2 and accordingly, the Applicant is alleged to have sexually assaulted Victim No.2. After the Victims were released, they were dropped to the Railway Station by Co-accused- Hrutik and thereafter, at the first opportunity, the Victims rushed to the Police and made complaint to them. Accordingly, the FIR was registered and the Accused No.1-Hrutik and the Applicant came to be arrested. Thereafter, Co-accused- Bunty, who is stated to be brother of the Hrutik, was also arrested.

4. The Applicant made an application for bail before the Sessions Judge, Thane, however, by an order dated 19th July 2023, the same came to be rejected. Thereafter, Applicant made Bail Application No. 2347 of 2023 before this Court. By an order dated 27th February 2024, this Court granted leave to the Applicant to withdraw the Application, however, the Trial Court was directed to expedite the trial and conclude the same as expeditiously as possible. The trial has commenced inasmuch as charges are framed however, no witness has been

examined as on date. In these circumstances, the Applicant has moved the present Bail Application for the reliefs as prayed.

5. Mr. Raj Dali, learned counsel appearing for the Applicant, submits that the Applicant is a young boy of 21 years of age as on date; He was arrested on 16th February 2023 and has suffered incarceration for as many as 2 years and 9 months; charges were framed only on 15th June 2024 and no witness has been examined till date. He further submits that the story of the Victims cannot be believed in so far as the Applicant is concerned since there are no CDR indicating that any call was made to the Applicant by the Co-accused to call him at the spot of the incident as alleged by the Victims and in fact, no mobile phone was recovered from him at the time of his arrest. Additionally, he submits that the CCTV footage also does not show presence of the Applicant at the Railway Station. In these circumstances, Mr. Dali, learned

counsel appearing for the Applicant, prays that the Applicant be released on bail.

6. Per contra, Mr. Yogesh Dabke, learned APP representing the State in the matter, draws my attention to the statements of the Victims, who narrated the incident in graphic detail and has implicated the Applicant along with the main Accused, i.e., Hrutik and Bunty. He further submits that the statements of the Victims recorded under Section 164 of the Code of Criminal Procedure, 1973 are consistent with their story, which they had narrated to the Police. He also points to the medical record of the Victims, which indicates abrasions, lacerations on their person and so far as the Victim No.2 is concerned, fresh blood was also found on her private parts. He further submits that the charges are framed and the trial is likely to commence and conclude in near future and thus, resists the Bail Application.

7. Ms. Mallika Sharma, learned counsel appointed to represent the Respondent No. 2, also supports the contentions

of Mr. Dabke. She further submits that medical record clearly indicates that the Victims were sexually assaulted and this is a serious offence. She also points to the recovery of mobile phone from the Co-accused- Hrutik containing a video of the Victim No.1 in a disrobed condition and described graphically again in the recovery panchanama. She thus, submits that the story of the Victims is believable and there is enough material on record to indict the Applicant. She thus, resists the Bail Application.

8. I have heard learned counsel appearing for the parties and perused the record with their assistance.

9. Statements of the Victims implicate all the accused persons. However, it appears from the statements that principal accused Hrutik and Bunty sexually assaulted the Victims on the spot of the incident and thereafter, according to the statements of the Victims, have called some other boy to also participate in the perversity. It is not clear as to whether telephone call was made to the Applicant since no mobile

phone was recovered from him at the time of his arrest on the date of incident. Moreover, CDR on record does not reveal any call was made to the Applicant by the Co-accused, Hrutik and Bunty. Since no mobile phone was recovered from the Applicant, there was no question of any video having been recorded on his mobile. It also appears that there was no conversation or communication between either of the Victims and the Applicant. Their entire interaction appears to be with Co-accused - Hrutik and Bunty. At this stage, Ms. Sharma interdicts by saying that at some stage during the course of the investigation, there was an allegation that the Applicant also threatened the Victims.

10. Be that as it may, it appears *prima facie* that the offence of sexual commit was committed by the Co-accused – Hrutik and Bunty. Considering that there is no material on record apart from the statements of the Victims to indicate that the Applicant was also present on the spot of the incident and participated in the offence and also having regard to the fact

that he has already suffered incarceration of 2 years and 9 months, I am inclined to enlarge the Applicant on bail. Hence, I pass the following order:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Police Station concerned once in a month on the first Monday of every month between 11:00 a.m. to 02:00 p.m.;
- iii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;
- iv) The Applicant shall not enter jurisdiction of Mumbai and Thane save and except to attend the

Police Station and Trial Court, concerned till the conclusion of the trial;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

vi) The Applicant shall not leave India, without the permission of the Trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

11. Application is allowed in the above terms and is accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)

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signed by
SHAMBHAVI
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SHIVGAN
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