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

BAIL APPLICATION NO. 1170 OF 2025

Sujata Biswanath Mukherjee	... Applicant
V/s.	
The State of Maharashtra	... Respondent

Mr. Sebin Joseph a/w Ms. Sandra Jaison, for the applicant.

Ms. Deepali Bagla, for respondent no.2 (appointed as legal aid).

Ms. Anagha Deshmukh, APP for respondent – State.

Mr. P.P. Phadtare, API, Panvel City, New Mumbai.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 6, 2025

P.C.:

1. This application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) is filed by the applicant seeking regular bail in connection with Crime Register No. 717 of 2014 registered with Panvel City Police Station for offences punishable under Section 74 of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. The case of the prosecution is that respondent no.2 and her husband are doctors and due to their professional duties, they are frequently away from home. They used to send their two minor children to the applicant, who is their neighbour, for day-care

about four days in a week. From July 2024, as respondent no.2 and her husband had night duty twice a week, they started sending their children to the applicant's house at night on those days for care. On 21 November 2024, at around 9.00 p.m., while playing, the daughter of respondent no.2, aged 5 years, suddenly stated, "Nana touches me." When questioned further, she informed her mother that one night, when the teacher (the applicant) and her husband were in the bedroom, she was in the hall with 'Nana', who then touched her private part. Respondent no.2 immediately informed her husband and, after discussing the matter, they decided to lodge a police complaint on 28 November 2024.

3. During the investigation, based on the statements recorded from the victim and other witnesses, respondent no.1 ascertained the involvement of the applicant and added her as accused no.2 in the case.

4. The learned Advocate for the applicant submitted that the allegations against the applicant, as reflected in the charge-sheet, are confined only to her failure to report the incident. He pointed out that there are inconsistencies between the statement of the victim recorded by the police and her statement recorded under Section 164 of the BNSS. According to him, the Section 164 statement contains only a vague reference to beating and no detailed allegation against the applicant. The main allegations, he argued, are directed against accused no.1, who has already been granted bail by the District Court. The learned counsel submitted that the applicant has been in custody since 28 December 2024 and hence, she deserves to be released on bail.

5. On the other hand, the learned Additional Public Prosecutor and the learned Advocate appointed for respondent no.2 opposed the application. They submitted that not only the statement of the victim but also those of other children who attended the day-care and tuition classes show that the applicant used to beat the children with a hanger. Considering these consistent statements and the allegations attributing an active role of physical assault to the applicant, it was argued that the application for bail deserves to be rejected.

6. Having considered the rival submissions and upon perusal of the material placed on record, the following reasons weigh in favour of granting bail to the applicant.

7. Firstly, the allegations against the applicant, as seen from the charge-sheet, are confined to her omission to report the alleged act of sexual assault committed by co-accused no.1. There is no material to show that the applicant herself was involved in any act of sexual assault or that she had abetted such act in any manner.

8. Secondly, a comparative reading of the victim's statement recorded by the police and her statement under Section 164 of the BNSS shows material inconsistencies. The statement under Section 164 does not make any clear or specific allegation against the applicant. The tenor of the statement indicates that the main allegation of sexual assault is directed against accused no.1, who has already been released on bail by the District Court.

9. Thirdly, as regards the allegation of beating the children, the same is general and uncorroborated. No injury report or

contemporaneous medical evidence has been placed on record to substantiate the claim of physical assault by the applicant. The allegation appears to have been made subsequently and does not prima facie indicate cruelty of a grave nature so as to justify continued detention.

10. Fourthly, the applicant is a woman. She is a permanent resident of the locality and has no prior criminal record. There is nothing to show that she would abscond or tamper with evidence if released on bail. The investigation is complete and charge-sheet has been filed. Hence, further custodial interrogation of the applicant is not required.

11. In view of the above circumstances, continued incarceration of the applicant would serve no useful purpose. The purpose of pre-trial detention is to secure the presence of the accused during trial. That objective can be achieved by imposing suitable conditions.

12. Accordingly, in the considered view of this Court, the applicant deserves to be enlarged on bail subject to appropriate terms and conditions to ensure her presence and to safeguard the prosecution evidence.

13. Hence, following order is passed:

- i) The applicant is directed to be released on regular bail in connection with C.R. No. 717 of 2025, registered with Panvel City Police Station, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand only) with

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.
- (b) The applicant shall report to the concerned Police Station once in three months, 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 enter the territorial jurisdiction of Khandeshwar Police Station.
- (d) The applicant shall appear before the Trial Court on every date of hearing unless exempted.
- (e) The applicant shall not leave the territorial jurisdiction of State of Maharashtra without its prior written permission.
- (f) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.
- (g) 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.
- (h) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for

cancellation of bail.

14. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)