

Amberkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 1177 OF 2025

Ravindra Lahanu Padher

.. Applicant

Versus

State of Maharashtra & Anr.

.. Respondents

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- Ms. Deepa Punjani, Advocate for Applicant
- Ms. Megha S. Bajoria, APP for Respondent No. 1 - State
- Ms. Anjali More, Advocate (appointed) for Respondent No. 2

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 09, 2025

P. C.:

1. Heard Ms. Punjani, learned Advocate for Applicant; Ms. Bajoria, learned APP for Respondent No. 1 - State and Ms. More, learned Advocate (appointed) for Respondent No. 2.

2. Applicant - accused has filed the present Application for regular bail under Section 439 of the Code of Criminal Procedure, 1973 (for short, "**Cr.PC.**") / under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short, "**BNSS**") in connection with Crime No. 113/2022 registered with Jawahar Police Station, Dist. Palghar for offences punishable under Sections 302, 201, 341, 376, 376-D read with 34 of the Indian Penal Code, 1860 (for short, "**IPC**") and under Sections 4, 6, 8, 12 and 18 of the Protection of Child from Sexual Offences Act, 2012 (for short, "**POCSO Act**"). Applicant was arrested

on 18.06.2022 and his actual imprisonment as of today is for 2 years 10 months and 22 days.

3. According to first informant - father of prosecutrix, prosecutrix was 16 & 1/2 years old at the time of incident. She used to go to the Wadi for grazing cattle and keeping a tab on the cashew and mango trees. On 14.06.2022 at about 11.00 a.m., she went to the Wadi but did not return home. At about 5.30 p.m. on the following day i.e on 15.06.2022, body of prosecutrix was found lying in a drain in the farm of one villager called Ramdas with her head soaked in blood. Case was registered on the ground that on 14.06.2022 prosecutrix went to take a look at their cashew and mango plantation in their Wadi and while returning home, she was accosted by some unknown person for unknown reasons who outraged her modesty, ravished her and killed her and threw her body in the drain. Offence was registered and investigation commenced. Statement of various witnesses in the village were recorded. Applicant and another co-accused person - Samir Taral were arrested by prosecution on the basis of one singular witness statement of Mr. Yogesh Taral and circumstantial evidence. There is no direct evidence in the present case.

4. The entire case of prosecution is hinging upon the witness statement of one Mr. Yogesh B. Taral appended at page No. 196 of Application. This prosecution witness is the person with whom the

victim's marriage had been fixed by her parents. Hence when the victim went missing, her parents inquired about her whereabouts with this prosecution witness and he did not know about her whereabouts. His statement is recorded under Section 161 of Cr.P.C. on 18.06.2022 and appended at page Nos. 196-197 of Application. His Section 164 statement recorded before the Magistrate on 29.06.2022 is appended at page Nos. 189-190 of Application. Apart from the aforesaid witness statement, there is no other incriminating material placed on record by prosecution to indict the present Applicant. Hence this witness statement assumes significance. First informant in the present case is father of prosecutrix victim who recorded his statement on 16.06.2022 appended at page Nos. 125-126 of Application. Insofar as FIR is concerned, it is registered against unknown persons who have committed the crime.

5. Ms. More, learned appointed Advocate for Respondent No.2 would adopt the submissions made by learned APP. She persuaded the Court to consider the gravity of crime committed by the Applicant. She would urge the Court to consider prosecutrix - victim's minor age at the time of incident. She would submit that material on record suggests that Applicant and co-accused have committed the offence and statement of witness is believable. She would submit that Court should be cautious while adjudicating heinous crimes like rape and

murder and in this case both crimes are committed, hence she would urge the Court to reject the Application.

6. With the able assistance of learned Advocates appearing for the parties, I have perused the aforesaid statements and the record of the case. Statement of prosecution witness Mr. Yogesh B. Taral states that two days prior to the incident he had overheard the accused persons talking to each other that prosecutrix was acting too smart and deserves to be taught a lesson. His statement further states that on the date of incident, he had seen the Applicant and co-accused person walking in the direction of the Wadi in the evening where the victim had gone to keep a tab on cashew and mango trees in the morning. Save and except this statement, there is no other material which corroborates to show that Applicant and co-accused committed the crime. Based on this statement, prosecution arrested the Applicant and since then he is in incarceration. As against this statement recorded on 18.08.2022, the statement of same prosecution witness recorded before the Magistrate and appended at page Nos. 189-190 of Application *prima facie* shows material infirmity and contradiction in as much as the date on which he had overheard the accused persons talking about the victim was 11.06.2022 whereas the date stated in Section 161 statement is 13.06.2022. This assumes material significance because immediately on the next date i.e. 14.06.2022, the

victim when she had gone to the Wadi was allegedly assaulted. Save and except the statement of this prosecution witness that he saw Applicant and co-accused walking in the same direction cannot attribute any role to Applicant having committed the alleged crime. This witness has stated that at about 5.00 p.m. he had seen the Applicant and co-accused person going in the same direction in the Wadi whereas in the other statement he has stated the time to be in the evening. That apart it is seen that there is no *prima facie* evidence whatsoever placed on record by prosecution for indictment of Applicant. It needs to state that the house of the Applicant and co-accused person is in the same direction of the Wadi.

7. Though it is forcibly argued by learned APP and learned Advocate (appointed) for Respondent No. 2 that the victim has been brutally assaulted and murdered, however that cannot be denied but to indict the Applicant merely on hearsay and circumstantial evidence without any corroboration or material is what the Court needs to consider. There has to be some material placed on record to enable the Court to *prima facie* come to the conclusion that Applicant is involved in the crime. The case of prosecution admittedly rests on circumstantial evidence and it is thereafter based on the statement of one prosecution witness who had overheard the Applicant and co-accused person talking with each other that they will have to teach the

victim a lesson because they were teasing her and she did not pay heed to them. It is seen that merely on the basis of above circumstantial and hearsay evidence, Applicant has been indicted and arrested in the crime.

8. *Prima facie* on perusing the record of the case, I am not convinced about the complicity of Applicant in the crime. This is my *prima facie* opinion. Needless to state that prosecution can prove its case against Applicant in trial. In view of my above *prima facie* observations, Applicant has made out a case for grant of bail. Hence, Bail Application is allowed subject to the following terms and conditions:-

- (i) Applicant is directed to be released on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or two sureties in the like amount;
- (ii) Applicant is permitted to furnish provisional cash bail of Rs. 25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs. 25,000/- within a period of four weeks after his release which shall be accepted by the Trial Court. Applicant shall provide sureties as directed;

- (iii) Before his actual release from jail, Applicant shall furnish his address where he proposes to reside after his release from jail to the concerned Police Station and also to the trial Court;
- (iv) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (v) Applicant shall attend the trial Court on first Tuesday of every month between 11.00 a.m. and 1.00 p.m. to mark his presence. If the first Tuesday of the said month falls on a holiday and / or non Court working day, the Applicant shall mark presence on the next working day;
- (vi) Applicant shall co-operate with the conduct of trial and attend the trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;
- (vii) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (viii) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner; and

(ix) In case of any infraction of the above conditions and / or two consecutive defaults in marking his attendance before trial Court, it shall attract the provisions of Section 439(2) of Cr.P.C. i.e. for cancellation of bail.

9. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

10. This Court appreciates the assistance rendered by Ms. More, Advocate appointed through Legal Aid to espouse the cause of the prosecutrix. Fees be paid by the High Court Legal Aid Services Authority of this Court to the learned appointed Advocate for Respondent No.2 as per rules on production of a server copy of this order.

11. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

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