

HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.1429 OF 2025

Bhushan @ Bacchi Kamalprasad Jaiswal

.. Applicant

Versus

The State of Maharashtra and Anr.

.. Respondents

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- Mr. Rahul Dingankar a/w. Mr. Pawan Karkera and Ms. Sharanya Vast, Advocates for Applicant.
- Ms. Mahalakshmi Ganapathy, APP for Respondent No.1.
- Ms. Priyanka Chavan, Advocate for Respondent No.2 appointed through legal aid.

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CORAM : MILIND N. JADHAV, J.

DATE : MAY 05, 2025

P.C.:

1. Heard Mr. Dingankar, learned Advocate for Applicant and Ms. Ganapathy, learned APP for Respondent No.1 and Ms. Chavan, learned Advocate for Respondent No.2 appointed through legal aid.

2. This is an Application under Section 439 of Code of Criminal Procedure, 1973 (for short '**Cr.P.C.**') seeking Bail in connection with C.R. No.5 of 2016 registered with Kurar Police Station for offences punishable under Sections 376D, 376(2)(i), 363, 328, 506(2) of the Indian Penal Code, 1860 (for short '**IPC**') and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short '**POCSO Act**')

3. Allegation of the prosecution is that Applicant had

kidnapped the First Informant's daughter aged 15 years old while she was returning to the house without her consent and in connivance and collusion with the other co-accused persons.

4. Mr. Dingankar has placed before me order dated 12.09.2023, *inter alia*, pertaining to one of the co-accused person. He would submit that case of present Applicant is identical and at par with the said Accused persons who have been enlarged on bail on 12.09.2023.

5. In continuation he would submit that present Applicant has faced the ignominy of incarceration for the past 9 years, 3 months and 22 days from date of his arrest. He would submit that trial has commenced and prosecution has completed witness action of two prosecution witness till date. He would persuade the Court to consider the fact that for the past 14 months, prosecution has not examined a single witness. Considering the pace and progress of trial and facet of long incarceration of Applicant without delineating any opinion on merits and considering case of Applicant being at par with case of co-accused who has been granted bail in Bail Application No.215 of 2023, I am inclined to consider Application of Applicant for grant of bail.

6. Ms. Ganapathy, learned APP for Respondent No.1 and Ms. Chavan, learned Advocate for Respondent No.2 – prosecutrix would persuade the Court to consider the gravity of offence in the present

case. They both would in tandem submit that the case of prosecution is that of kidnapping the prosecutrix and thereafter ravishing her modesty by all the co-accused persons including Applicant. However, it is equally true that Applicant was not named in the First Information Report (for short 'FIR') which was filed in the first instance by the prosecutrix which is borne out from the record.

7. It is seen that two and half months later the prosecutrix has recorded a supplementary statement wherein she has accused the Accused No.1 with whom she had admitted to have a consensual relationship to have pushed her into having a relationship with present Applicant and the other co-accused person. In view of aforementioned delay which is *prima facie* writ large on the face of record, despite the fact that prosecutrix is a minor, I am inclined to consider the case of Applicant on parity with the case of Applicant in Bail Application No.215 of 2023 and considering long incarceration of Applicant for period of 9 years, 3 months and 22 days pending trial, and trial not having commenced till date deserves the Application to be considered.

8. 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) 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;
- (iii) After his release from jail, Applicant shall report to the Investigating Officer as and when called for;
- (iv) 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;
- (v) 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;
- (vi) Applicant shall not leave the State of Maharashtra without prior permission of the Trial Court;
- (vii) 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 him from

disclosing the facts to Court or any Police Officer or influence any of the witnesses or tamper with the evidence in any manner;

(viii) Applicant shall not establish any contact with the victim;

(ix) Learned Advocate for the Applicant submitted on instructions that the Applicant shall not enter the jurisdiction of the Police Station where the victim is residing; and

(x) 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. They shall not be construed as observations on merit. The trial shall be adjudicated on the strength of evidence led by parties 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. Chavan, learned appointed Advocate for Respondent No.2. Fees of the

learned Advocate Ms. Chavan appointed through legal aid to represent and espouse the cause of Applicant shall be released by the Registry of this Court within a period of one week from the date of presentation of a server copy of this order on compliance.

11. Bail Application No.1429 of 2025 is allowed and disposed.

H. H. SAWANT

[MILIND N. JADHAV, J.]

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