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

BAIL APPLICATION NO.1477 OF 2025

Pappu Hiralal Gupta ... Applicant
V/s.
The State of Maharashtra & Anr. ... Respondents

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Mr. Raviraj Paramane with Mr. Deva L. Shinde for the applicant.

Mrs. Rajashree V. Newton, APP for respondent No.1-State.

Ms. Aneesa Cheema, for respondent No.2-victim (appointed as Legal Aid).

Mr. Prafull Masal, PSI, Malwani Police Station, is present.

CORAM : AMIT BORKAR, J.

DATED : JULY 7, 2025

P.C.:

1. This is a bail application filed under Section 439 of the Criminal Procedure Code, 1973, wherein the applicant is seeking regular bail in connection with Crime Register No.85 of 2021 registered with Malvani Police Station for the offences punishable under Sections 363, 363-A, 368, 376, 376(2)(n) of the Indian Penal Code, 1860 read with Sections 4, 5(1), 6 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. According to the prosecution case, as unfolded from the materials on record, the complainant is the natural mother of the

victim who has approached the police authorities seeking redressal for the alleged criminal acts perpetrated upon her minor daughter. The victim, at the time of the alleged incident, was 16 years of age, thereby falling within the definition of a 'child' as contemplated under Section 2(1)(d) of the Protection of Children from Sexual Offences Act, 2012. The specific allegations levelled against the applicant/accused are that he, with criminal intent and malafide purpose, kidnapped the victim from the lawful guardianship of the complainant and thereafter committed penetrative sexual assault repeatedly upon the victim, thereby violating her bodily integrity and dignity. The prosecution further alleges that such criminal acts were committed by the applicant in a systematic and continuous manner, causing immense physical and psychological trauma to the victim. On the basis of the aforesaid complaint and the material collected during the preliminary investigation, the crime has been registered against the accused under the aforementioned penal provisions.

3. The learned Advocate appearing for the applicant has vehemently submitted that the chronological age of the victim was 16 years at the time of the alleged incident, and has contended that the prosecution case suffers from material contradictions and lacks credible evidence to substantiate the charges levelled against his client. According to the version projected by the prosecution, the victim was allegedly abducted by the applicant on the false promise of performing marriage, despite the fact that the applicant was already married and had concealed his marital status from the victim and her family. The learned counsel has further submitted

that the subsequent conduct of the parties indicates that they performed marriage ceremony as per Vedic rites and customs, and that the victim voluntarily accompanied the applicant to various places including the holy city of Varanasi, which demonstrates the consensual nature of their relationship. The learned counsel has emphasized that thereafter, certain domestic quarrels arose between the applicant and the victim, which led to the registration of the present case as an act of vendetta. He has highlighted that the applicant was arrested on 13th February, 2021, and has been languishing in judicial custody for a considerable period without the charges being framed against him. The learned counsel has further submitted that the prosecution has cited 15 witnesses in the charge-sheet, and considering the backlog of cases in the criminal courts and the lengthy procedure involved in recording evidence of such large number of witnesses, it is highly unlikely that the trial will conclude within a reasonable period. He has, therefore, earnestly prayed that the applicant, being entitled to the constitutional right of speedy trial and presumption of innocence, should be released on bail with appropriate conditions.

4. Per contra, the learned Additional Public Prosecutor representing the State, as well as the learned Advocate appointed under the legal aid scheme to represent the victim, have strongly opposed the bail application by submitting that the offences alleged against the applicant are of grave and serious nature, involving moral turpitude and crimes against women and children. They have emphasized that the applicant, being a married person, deliberately concealed his marital status and induced the victim,

who was a minor aged 16 years, to accompany him on the false and fraudulent promise of marriage, thereby exploiting her innocence and vulnerability. The learned counsel has submitted that such conduct on the part of the applicant constitutes not only a breach of trust but also a serious crime against the dignity and honour of the victim and her family. They have further contended that the applicant, having committed such heinous offences against a minor victim, poses a potential threat to the safety and security of the complainant and the victim, and his release on bail at this stage would not only be prejudicial to the fair investigation and trial of the case but would also send a wrong message to the society at large. The learned counsel has, therefore, vehemently opposed the bail application and prayed that the same be rejected in the interest of justice and to ensure that the victim gets a fair trial without any intimidation or pressure from the applicant or his associates.

5. Having heard the learned counsels for both sides and having perused the material on record, this Court is called upon to determine whether the applicant is entitled to be released on bail, keeping in mind the well-settled principles of law governing the grant of bail in serious criminal cases.

6. While this Court is cognizant of the serious nature of the allegations levelled against the applicant, which involve charges under the Protection of Children from Sexual Offences Act, 2012, it is also mindful of the fact that the case primarily rests on the testimony of the complainant and the alleged victim. The prosecution case, as it emerges from the charge-sheet, reveals

certain inconsistencies and contradictions that merit consideration. The allegation of kidnapping under Section 363 of the Indian Penal Code presupposes taking away a person against their will, whereas the material on record suggests that the victim accompanied the applicant voluntarily to various places including Varanasi, and even participated in marriage ceremonies as per Vedic rites. The subsequent conduct of the parties, including their cohabitation for a considerable period, raises questions about the veracity of the allegations of forcible abduction and sexual assault.

7. The applicant has been in custody since 13th February, 2021, which amounts to a period of approximately ten months without the charges being framed against him. Article 21 of the Constitution guarantees not only the right to life and personal liberty but also encompasses the right to speedy trial. The Hon'ble Supreme Court in *Hussainara Khatoon v. Home Secretary, State of Bihar (1979) 1 SCC 108*, has emphasized that prolonged detention without trial violates the fundamental right to speedy trial. The prosecution has cited 15 witnesses, and considering the present state of judicial administration and the backlog of cases, it is reasonable to assume that the trial may take considerable time to conclude. Prolonged incarceration without conviction would amount to punishment before trial, which is contrary to the principles of natural justice and the presumption of innocence.

8. The Court has carefully considered whether the applicant poses a flight risk or threat to public safety. The applicant has roots in the community, and there is no material on record to suggest that he has a history of absconding from legal proceedings or

intimidating witnesses. The investigation appears to be substantially complete, and the charge-sheet has already been filed. The possibility of the applicant tampering with evidence at this stage is minimal, particularly when appropriate conditions can be imposed to ensure his compliance with the legal process.

9. While this Court is sensitive to the concerns raised by the prosecution regarding the nature of the allegations and the need to protect the victim, it is also bound by the constitutional mandate to ensure that the rights of the accused are not violated. The principles of criminal jurisprudence demand that the Court strike a balance between the competing interests of the individual's liberty and the broader public interest. The Court is of the considered view that the detention of the applicant for such a prolonged period without trial would not serve the ends of justice, particularly when adequate safeguards can be put in place to address the concerns of the prosecution.

10. After careful consideration of all the factors involved, including the nature of the allegations, the period of detention, the likelihood of speedy trial, the constitutional rights of the applicant, and the precedents established by the superior courts, this Court is of the considered opinion that the applicant has made out a case for grant of bail. The continued detention of the applicant without trial would be contrary to the principles of natural justice and would amount to pre-trial punishment, which is impermissible under our constitutional framework.

11. Hence, following order:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.85 of 2021 registered with Malvani Police Station for the offence punishable under Sections 363, 363-A, 368, 376, 376(2)(n) of the Indian Penal Code, 1860 read with Sections 4, 5(1), 6 and 12 of the Protection of Children from Sexual Offences Act. 2012, upon furnishing personal bond in the amount of Rs.25,000/- (Rs. Twenty Five Thousand Only) with one or more sureties in the like amount to the satisfaction of the Trial Court, subject to following conditions:
 - a) The applicant shall not, in any manner, contact the victim or her family members, directly or indirectly.
 - b) The applicant shall not enter the locality where the victim resides, and shall maintain a distance of at least 500 meters from the place of alleged incident.
 - c) The applicant shall cooperate with the prosecution and attend all trial dates regularly.
 - d) The applicant shall not tamper with evidence or influence any witness.
 - e) The applicant shall provide his current residential address and inform the court in case of change of residence.
 - f) The applicant shall not commit any offence during the pendency of trial, failing which his bail is liable to be cancelled.

g) Any breach of these conditions shall result in the prosecution moving for cancellation of bail before the Trial Court.

12. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)