

AGK

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

BAIL APPLICATION NO.1583 OF 2025

Abdul Mohammad Ali Kabale	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr. Akshay P. Kataria with Mr. Devang Thakkar for the applicant.

Mrs. Shilpa G. Talhar, APP for respondent No.1-State.

Ms. Kanchan Pawar for respondent No.2-victim (appointed as Legal Aid).

Mr. Nivrutti Shinde, PSI, Pali Police Station, Raigad, is present.

ATUL
GANESH
KULKARNI

Digitally signed by
ATUL GANESH
KULKARNI
Date: 2025.09.08
18:53:35 +0530

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 8, 2025

P.C.:

1. The present bail application has been filed under Section 439 of the Criminal Procedure Code, 1973, seeking regular bail in connection with Crime No. 39 of 2023 registered at Pali Police Station, District Raigad. The applicant has been booked for offences punishable under Sections 377 and 324 of the Indian Penal Code, 1860, and Sections 3(a), 3(c), 4(i), 6, 7, 8, 9(I), 9(v), 10, 11(ii), and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. As per the prosecution case, on 17th March 2023, the informant had gone to visit his daughter's family residing at Pali.

During the visit, the informant's grandson disclosed that about two months prior, while he was conversing with a female friend at Pali Bus Stand, the present applicant approached him and signaled him to come closer. Upon doing so, the applicant asked the victim his name, which the victim disclosed. The applicant then introduced himself and claimed to know the victim's father. He further threatened to inform the victim's family about his female friend and compelled him to sit on his motorcycle. Out of fear, the victim complied. The applicant then took the victim to an old house near Pali Masjid and locked the door from inside. No one else was present in the house at that time. The applicant placed a packet of cigarettes and a bottle of liquor before the victim and asked him to smoke. The victim, under fear, smoked a cigarette.

3. Thereafter, the applicant allegedly caught hold of the victim, removed his pants, and touched his private parts. He threatened the victim not to disclose the incident to anyone, stating that if he did, the applicant would inform his family that the victim smokes and roams around with his girlfriend after taking money from the applicant. Subsequently, the applicant started visiting the victim's tuition classes around 6:00 p.m., took him to his house, and repeated similar acts of sexual assault, including removing his own clothes in front of the victim. On one such occasion, the victim expressed his need to return home and left the applicant's house.

4. On 16th March 2023, around 5:00 p.m., the applicant again came to the victim's classes, took him to his house, removed the victim's clothes, touched his private parts, and hugged him after removing his own clothes. The victim informed the applicant that

he had to return home early due to an examination the next day. However, the applicant refused to let him go. Based on the complaint lodged by the informant, the present offence came to be registered.

5. Learned counsel for the applicant submitted that the applicant was arrested on 17th March 2023 and that the investigation has been completed. He pointed out that this Court, by order dated 12th February 2024, had permitted withdrawal of the earlier bail application with liberty to file a fresh application after ten months, if there was no substantial progress in the trial. He submitted that till date, not a single witness has been examined, and hence, the trial is unlikely to conclude in the near future. He therefore prayed for grant of regular bail.

6. On the other hand, learned APP opposed the bail application, stating that the applicant, aged 62 years, has committed penetrative sexual assault on a minor boy aged 15 years. She submitted that the applicant resides in the same village and, if released on bail, may influence witnesses and tamper with evidence. Considering the seriousness and gravity of the offence, she argued that the applicant does not deserve bail. She further submitted that directions may be issued to expedite the trial. Accordingly, she prayed for rejection of the bail application.

7. The allegations against the applicant are extremely serious in nature. The victim is a minor boy aged 15 years, and the applicant, aged 62 years, is alleged to have committed repeated acts of sexual assault, including penetrative sexual assault, which attract

stringent provisions under the POCSO Act. The nature of the offence reflects a grave violation of bodily autonomy and child safety, and such acts have deep psychological impact on the victim.

8. The FIR and statement of the victim under Section 164 Cr.P.C. disclose specific and detailed allegations against the applicant. The narration is consistent and indicates a pattern of predatory behaviour. At this stage, there is sufficient prima facie material to suggest the applicant's involvement in the offence.

9. The applicant resides in the same locality as the victim and other prosecution witnesses. There is a reasonable apprehension that if released on bail, the applicant may influence or threaten the victim and witnesses, thereby affecting the fair conduct of trial. The possibility of tampering with evidence cannot be ruled out.

10. It is true that the trial has not progressed substantially and no witness has been examined so far. However, mere delay in trial cannot be a ground to grant bail in cases involving serious sexual offences against children. The Court is empowered to issue directions to expedite the trial, but that by itself does not dilute the gravity of the offence.

11. The offences alleged fall under Sections 5 and 6 of the POCSO Act, which carry a presumption against the accused under Section 29 of the said Act. The burden lies on the accused to rebut the presumption, which at this stage has not been discharged.

12. The earlier bail application was withdrawn with liberty to file afresh after ten months in case of no substantial progress. However, apart from delay, there is no change in circumstances

that would justify grant of bail. The allegations remain serious, and the risk to the victim's safety and trial integrity persists.

13. Considering the above circumstances, liberty is granted to the applicant to renew the prayer for bail, in case the trial does not progress substantially within a period of six months from today.

14. Accordingly, the bail application stands rejected.

(AMIT BORKAR, J.)