

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.1623 OF 2025**

Avesh Riyaz @ Babu Momin
Versus
State of Maharashtra and Anr.

...Applicant

...Respondents

Mr. Mohammed Taha, *for the Applicant.*
Mr. Yogesh Y. Dabke, *APP for the Respondent No.1 - State.*
Ms. Keral Mehta, *appointed Advocate for the Respondent No.2.*
PSI – Shrikant Chavan, Bazarpeth Police Station, Thane City, present.

CORAM DR. NEELA GOKHALE, J.
DATED: 29th SEPTEMBER 2025

PC:-

1. By this Application, the Applicant seeks his enlargement on bail in connection with C.R. No. 336 of 2024 dated 12.05.2024 registered with the Bazarpeth Police Station, for the offences punishable under Sections 354, 354(D), 323, 324, 309, 337, 504, 506 and 509 of the Indian Penal Code, 1860 ('**IPC**') and Section 12 of the Protection of Children from Sexual Offences Act, 2012 ('**POCSO**').

2. The Applicant was 26 years and the victim was 14 and $\frac{1}{2}$ years of age at the time of the incident.

3. It is the case of the prosecution that the mother of the victim gave a complaint narrating the incident that happened to her daughter. On 11th May, 2024, at approximately 10:30 p.m., when the Complainant along with her family members including mother-in-law, sister-in-law and other members of family were sitting outside the house chit-chatting, the Applicant came upto her daughter i.e. the victim and grabbed her hands. He told her that she should marry him or else he would do something with his own life. He also threatened the victim girl. Apparently, the minor victim tried to release her hand from his clutches, but he took out a knife from his pant's pocket and sliced his own hand threatening that he will commit suicide, if the victim girl does not assent to his demands. The victim girl was scared and started to cry. Seeing the entire incident, the Complainant's nephew who was also with them, tried to stop the Applicant by holding his

hand. In the ensuing scuffle, the Applicant also slashed at the said nephew with the knife. The Complainant/First Informant made a complaint with the police and the FIR came to be registered.

4. The Applicant filed two successive bail applications before the Trial Court, however, both the applications were rejected, the recent order being dated 24th February, 2025. In these circumstances, the Applicant has filed the present Application for the reliefs as prayed.

5. Mr. Taha, learned counsel for the Applicant, submits that it is in fact the father of the victim who assaulted the Applicant and despite giving a complaint to the police, an FIR was not registered. It was only after the Applicant made a complaint to the learned Magistrate during remand proceedings, that the police registered his FIR. He submits that the Applicant is in custody from 12th May, 2024 and till date charges are not framed. He also submits that the maximum punishment for the offence under Section 354 of

the IPC, 1860 is 5 years and since he has suffered more than 1 year and 4 months, the Applicant be enlarged on bail.

6. Per contra, Ms. Mehta, learned counsel appointed through legal aid to represent the Respondent No.2, submits that the Applicant has 19 antecedents, some of which are of similar nature. He has been externed thrice. He is a habitual offender. The incident as narrated by the Complainant as well as the statement of the victim herself is consistent with each other and the incident itself is serious and hence, the Applicant does not deserve to be released on bail.

7. Mr. Dabke, learned APP representing the State, supported the submissions made by Ms. Mehta. He submits that the date before the Trial Court was today itself and on the next date the charges are likely to be framed. There are only 5 to 6 witnesses and in view of these circumstances, the trial is likely to conclude in the foreseeable future.

8. I have heard learned counsels for respective parties and perused the record of the case with their assistance.

9. The incident as depicted by Mr. Taha is not as innocuous as Mr. Taha would want the Court to believe. A 26 year old adult has outraged the modesty of a young girl of 14 and ½ years by grabbing her hand and that too in presence of her family members. This itself indicates the brazenness of the Applicant in being unafraid of even the presence of family members and in proceeding to outrage the modesty of a 14 and ½ year old young girl. He threatened to kill himself if she refused to agree to his wishes and in fact, proceeded to cut his own wrist with a knife which he was carrying. The consequences of the behavior of the Applicant are serious in nature and cannot be brushed away lightly. Many instances, where girls of young age are harassed, sometimes lead to serious psychological problems, even to the extent of committing suicide. Every citizen in this country has the right

to live with dignity and honor, which is a fundamental right guaranteed under Article 21 of the Constitution of India. Sexual harassment, like eve-teasing of women, amounts to violation of rights guaranteed under Articles 14 and 15 of the Constitution as well.

10. The only ground raised by Mr. Taha is that the father of the victim tried to assault the Applicant and the police did not even register the FIR. In my view, this cannot be a ground for his enlargement on bail. Considering that the Applicant is a resident of the same locality, it is quite possible that he is in a position to intimidate and threaten the witnesses as well as the victim in the present case. The 19 antecedents pertaining to the Applicant as well as the externment orders indicate that the Applicant is a habitual offender. In these circumstances, I am not inclined to grant bail.

11. In view of the aforesaid, Bail Application is rejected.

12. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(DR. NEELA GOKHALE, J)