

Shabnoor

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

BAIL APPLICATION NO. 2052 OF 2025

Sujal Sudam Kale

... Applicant

V/s.

State of Maharashtra & Anr.

... Respondents

Mr. Rohan Hogle, for the applicant.

Ms. Rajashree V. Newton, APP for the State –
respondent No.1.

Ms. Shivani Kondhalkar, for respondent No.2.

Mr. Rajendra Ghevadekar, API, Panvel City Police
Station is present.

CORAM : AMIT BORKAR, J.

DATED : SEPTEMBER 30, 2025

P.C.:

1. The applicant has filed this bail application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, asking to be released on bail. He is accused in Crime Register No. 32 of 2025 at Panvel City Police Station. The charges against him are under Sections 64(1), 64(2), 64(m), 70(20), 351(2), and 351(3) of the Bharatiya Nyaya Sanhita, 2023 ('BNS'), and also under Sections 4 and 8 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO').

2. According to the prosecution's case, the victim is a minor girl. In 2020, she and the applicant met through Instagram and

started talking. They met in person, became friends, and fell in love. The victim states that on 15th April 2023, the applicant took her to his house, demanded a physical relationship, and threatened her into having sexual relations with him. The accused threatened that he would only marry her if she agreed to the physical relationship. After that, this act was repeated several times. On 7th November 2024, the applicant again misled the complainant with the promise of marriage, took her to a lodge in Nerul, and sexually assaulted her by force. Throughout the period from 3rd April 2023 to 7th November 2024, the applicant allegedly took advantage of the complainant being a minor, threatened to kill her family members, and repeatedly forced her into sexual activity at his house and at a lodge in Nerul against her will and under false promises of marriage. Based on these allegations, an FIR was registered against the applicant.

3. The applicant's advocate argued that when the first incident happened, the victim was about 16 years old and the applicant was around 19 years old. According to him, the victim's account shows that she went with the applicant to various lodges willingly. He also pointed out differences between the statements recorded under Sections 161 and 164 of the CrPC (now renumbered as Sections 181 and 183 of the BNSS). He argued that the victim's statement in the FIR does not show that the applicant forced or pressured her to go with him. The applicant had only promised to marry her. Therefore, the lawyer requested that the applicant be granted bail.

4. However, the public prosecutor (APP) and the victim's

advocate opposed the bail application. They argued that the allegations are very serious. The statements recorded under Sections 181 and 183 of the BNSS show that multiple incidents took place. Therefore, they requested that the bail application be rejected.

5. I have carefully considered the submissions made by both sides, examined the case records, and reviewed the relevant legal provisions applicable to this matter.

6. The primary consideration in bail matters involving allegations under POCSO Act is to balance the gravity of the accusations against the fundamental right to liberty of the accused, while also ensuring that the investigation and trial are not hampered.

7. In the present case, several factors weigh in favor of granting bail to the applicant. Firstly, the alleged relationship between the applicant and the victim appears to have been consensual in nature, arising out of a romantic relationship that began when both parties were young. The victim herself admits that they met on Instagram, became friends, and fell in love. The narration suggests that the victim accompanied the applicant willingly on various occasions.

8. Secondly, at the time of the first incident, the applicant himself was only 19 years old, being merely three years older than the victim. The age difference is not substantial, and the applicant was also relatively young and immature at the relevant time. This is a relevant consideration while assessing the nature and gravity

of the alleged offense.

9. Thirdly, the investigation in this case appears to be complete. The charge sheet has been filed, and the accused's continued custody is not required for the purpose of investigation. There is no apprehension that the applicant will tamper with evidence or influence witnesses if released on bail.

10. Fourthly, while the allegations are serious, the core issue appears to revolve around the promise of marriage. The FIR itself does not clearly establish that the applicant used force or coercion in the initial stages of the relationship. The allegation primarily rests on the false promise of marriage rather than physical force or violence.

11. The inconsistencies pointed out by the learned counsel between the statements recorded under Sections 181 and 183 of the BNSS also need to be examined during trial. These inconsistencies create doubt about the exact nature of the incidents and whether they occurred under force or under a consensual relationship with promises of marriage.

12. It is well-settled that bail is the rule and jail is the exception. The applicant has already spent considerable time in custody. His continued detention at this stage, when the investigation is complete and trial may take considerable time, would be unfair and unjust.

13. Moreover, the applicant has roots in the community and is not a flight risk. There is no previous criminal history on record suggesting that the applicant is a habitual offender or poses a

danger to society.

14. While the Court is mindful of the serious nature of offenses under the POCSO Act and the need to protect minor victims, in this particular case, considering the nature of the relationship, the age proximity of both parties, the completion of investigation, and the lack of evidence of use of force in the initial stages, the applicant deserves to be released on bail subject to appropriate conditions.

15. In view of the above discussion and legal position, the following order is passed:

(i) The Bail Application is allowed.

(ii) The applicant shall be released on bail in connection with Crime Register No. 32 of 2025 registered with Panvel City Police Station for offences punishable under Sections 64(1), 64(2), 64(m), 70(20), 351(2), 351(3) of the BNS and under Section 4, 8 of POCSO, upon furnishing a Personal Bond of ₹25,000/- (Rupees Twenty-Five Thousand only) along with one or more solvent sureties in the like amount, to the satisfaction of the learned Trial Court, subject to the following conditions:

(a) The applicant shall not tamper with evidence, or directly or indirectly contact, influence, threaten, or intimidate any witness.

(b) The applicant shall attend all proceedings before the Trial Court regularly, unless exempted by the Court on valid

grounds supported by sufficient cause.

(c) The applicant shall report to the Panvel City Police Station once in every three months between 10.00 a.m. and 12.00 noon, until further orders.

(d) The applicant shall not leave the territorial jurisdiction of the State of Maharashtra without prior written permission of the Trial Court.

(e) The applicant shall not commit any offence during the pendency of trial, failing which his bail is liable to be cancelled.

(f) The applicant shall, at the time of furnishing surety, provide his current residential address and mobile number to the Investigating Officer as well as the Trial Court, and shall inform the Court in writing of any change in residence or contact details during the pendency of the case.

16. The Bail Application stands disposed of in above terms.

(AMIT BORKAR, J.)