

AGK

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

**BAIL APPLICATION NO.2056 OF 2025**

|                                 |                 |
|---------------------------------|-----------------|
| Rajkumar @ Rahul Mahesh Nishad  | ... Applicant   |
| <b>V/s.</b>                     |                 |
| The State of Maharashtra & Anr. | ... Respondents |

Mr. Rammani Upadhyay for the applicant.

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

Ms. Priyanka B. Chavan for respondent No.2-victim.

Mr. Bhagwan Pawar, PSI, Kurar Police Station, Mumbai,  
is present.

**CORAM : AMIT BORKAR, J.**

**DATED : SEPTEMBER 2, 2025**

**P.C.:**

1. By the present application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (hereinafter referred to as “BNSS”), the applicant seeks his release on regular bail in connection with Crime Register No. 489 of 2024 registered with Kurar Police Station, Mumbai. The applicant has been booked for offences punishable under Sections 354, 354(A), and 506 of the Indian Penal Code, 1860 (hereinafter referred to as “IPC”) and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as “POCSO Act”).

2. The case of the prosecution, in brief, is that the informant, who is the mother of the victim girl, lodged a complaint with Kurar Police Station. She has two daughters. On 9 June 2024, being the

Digitally  
signed by  
ATUL  
GANESH  
KULKARNI  
Date:  
2025.09.02  
19:00:54  
+0530

birthday of the victim girl, her husband returned home from work and was asked to bring a cake. At that time, the victim, aged about 10 years, was playing in the gallery of the house. It is alleged that the accused, who was residing in the informant's house on a rental basis, was showing some content on his mobile phone to the victim. On suspicion, the informant snatched the mobile phone and found that the accused was showing a blue film to the child. Based on this information, the present crime was registered.

3. Learned Advocate appearing on behalf of the applicant, drawing attention to the First Information Report (FIR), submitted that according to the prosecution, the alleged incident occurred on 9 June 2024 when the applicant is said to have shown pornographic material and also exposed his private part to the victim. He pointed out that the FIR as well as the statement of the victim recorded under Section 164 of the Code of Criminal Procedure, 1973 do not provide any clear details of the specific date, month, or year with regard to the alleged act of touch. It is further submitted that the applicant has been in custody since 14 June 2024 and has undergone incarceration for more than one year and two months. Considering that the maximum punishment prescribed for the alleged offence is five years, it is argued that continued detention of the applicant would be unjustified. On this ground, it is urged that the applicant deserves to be enlarged on bail.

4. On the other hand, the learned APP, supported by the learned Advocate appointed to represent the victim, opposed the bail application. It is submitted that the victim, in her statement

under Section 164 of the Code of Criminal Procedure, 1973, has narrated in detail the manner in which the applicant showed pornographic material to her. Having regard to the tender age of the victim, it is urged that the allegations are of a serious nature and cannot be taken lightly. On this ground, it is strongly contended that the applicant does not deserve the relief of bail and that the application deserves rejection.

5. I have carefully considered the rival submissions and perused the material placed on record. The allegations against the applicant, no doubt, pertain to offences under the POCSO Act which, by their very nature, are treated with seriousness. The victim in her statement has stated about the applicant showing objectionable material on his mobile phone. However, on perusal of the FIR as well as the statement recorded under Section 164 of the Code of Criminal Procedure, 1973, it is noticed that there are no clear details with respect to the date, month or year of the alleged act of physical touch. The allegations are general in nature, and except for the statement of the victim, there is no independent corroborative material collected so far.

6. The applicant has been in custody since 14 June 2024, and thus has undergone incarceration for a period of more than one year and two months. The maximum punishment prescribed for the offences alleged against him is five years. At this stage, keeping in view the principle of proportionality between the period of sentence and pre-trial detention, continued incarceration of the applicant would not serve the ends of justice. Trial in such matters is also likely to take considerable time, and it cannot be lost sight

of that pre-trial detention is not to be used as a substitute for punishment.

7. It is a settled principle of criminal jurisprudence that every accused is presumed to be innocent until proven guilty. Bail is the rule and jail is the exception. While granting bail, this Court is not required to enter into a detailed appreciation of the evidence. At this stage, what is relevant is the nature of allegations, the punishment prescribed, the period already undergone, and the likelihood of trial being concluded in the near future. On balancing these considerations, I find that the applicant has made out a case for grant of bail.

8. Hence, following order is passed:

- i) The bail application is allowed;
- ii) The applicant is directed to be released on regular bail in connection with Crime Register No.489 of 2024 registered with Kurar Police Station, Mumbai for offences punishable under Sections 354, 354(A), 506 of the IPC and Sections 8, and 12 of the POCSO Act, upon furnishing a personal bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or more solvent sureties in the like amount, to the satisfaction of the 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, particularly family members of the deceased.

(b) The applicant shall report to the Kurar Police Station, Mumbai once in a month, specifically on the 1st Monday of each month, between 10:00 a.m. and 12:00 noon, until further orders.

(c) The applicant shall not enter the territorial jurisdiction of the Kurar Police Station, Mumbai without prior written permission of the Trial Court, except for marking his attendance.

(d) The applicant shall not commit any offence or engage in any criminal activity during the pendency of the trial.

(e) 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.

(f) In case of any breach of the conditions mentioned above, the prosecution shall be at liberty to move for cancellation of bail.

9. The bail application is allowed and disposed of.

**(AMIT BORKAR, J.)**