

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

CRIMINAL BAIL APPLICATION NO. 2072 OF 2025

Gorakhnath Maruti Joshi

...Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Akshay Bankapur, learned Advocate for the Applicant.

Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent.

Ms. Grishma Lad, learned Advocate for Respondent No. 2.

HC-48 Mr. S. B. Patil attached to Ghoti Police Station, Nashik Rural is present in the Court.

CORAM : ASHWIN D. BHOBE, J.

DATE : 26th AUGUST 2025.

P.C. :

1. Heard Mr. Akshay Bankapur, learned Advocate for the Applicant, Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent and Ms. Grishma Lad, learned Advocate for Respondent No. 2.

2. By the present Application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (“**BNSS**” for short), the Applicant is before this Court seeking regular bail in connection with Crime No. 58 of 2025 registered with Ghoti Police Station, District-Nashik Rural for the offences punishable under Sections 64, 65(1), 75 & 45 of the Bharatiya Nyaya Sanhita, 2023 (“**BNS**” for short) and Sections 4, 6, 8, 12, 17 & 21 of the Protection of Children from Sexual Offences Act, 2012 (“**POCSO Act**” for short).

3. Mr. Akshay Bankapur, learned Advocate for the Applicant submits that the abovesaid crime is registered as Special (POCSO) Case No. 93 of 2025 and is pending on the file of Special Judge (Atrocities on Women) and Additional Sessions Judge-5, Nashik.

4. There are 2 accused persons in the present crime. Applicant is Accused No. 2, whereas Tukaram Govind Sable is Accused No. 1.

5. Case of the prosecution is that Tukaram Sable (Accused No. 1) committed penetrative sexual assault on Respondent No. 2. The said fact though to the knowledge of Applicant, Applicant did not report commission of an offence on Respondent No. 2 (minor girl) to the Police.

6. Applicant was arrested on 8th February 2025. Criminal Bail Application at Exhibit-3 in Special (POCSO) Case No. 93 of 2025 was rejected by the Special Judge (Atrocities on Women) and Additional Sessions Judge-5, Nashik by order dated 17th April 2025.

7. Mr. Akshay Bankapur, learned Advocate for the Applicant submits that the allegation against the Applicant in the present crime is of not reporting the offence committed by Accused No. 1 on the Respondent No.2, to the Police. He submits that the Applicant is not involved in the commission of penetrative sexual assault on Respondent No. 2.

8. Ms. Anamika Malhotra, learned A.P.P. for the State/Respondent submits that the involvement and implication of the Applicant as an accused in the present crime, is for the reason of Applicant though being aware of Accused No. 1 committing an

offence under the provisions of POCSO Act, the same was not reported by the Applicant.

9. Ms. Grishma Lad, learned Advocate for Respondent No. 2 also submits that the involvement of Applicant in the present crime is limited to the Applicant not reporting the said offence and attempting to suppress the same. She submits that the main accused in the crime, who has sexually assaulted Respondent No. 2, is Accused No. 1.

10. I have perused the records with the assistance of learned Advocates of the parties.

11. Material on record reveals that the Applicant has been arrayed as Accused No. 1 in Crime No. 58 of 2025 on the ground of the Applicant having failed to report the commission of an offence under the POCSO Act, with reference to the minor victim, to the Police. Apart from the said allegation, there is no material on record to indicate the Applicant being involved in any act, which would amount to an offence in the present crime.

12. Applicant was arrested on 8th February 2025. He is in jail for a period of almost 6 months from the date of his arrest.

13. Section 21 of the POCSO Act reads as follows :-

“21. Punishment for failure to report or record a case.—

(1) Any person, who fails to report the commission of an offence under sub-section (1) of section 19 or section 20 or who fails to record such offence under sub-section (2) of section 19 shall be punished with imprisonment of either description which may extend to six months or with fine or

with both.

(2) Any person, being in-charge of any company or an institution (by whatever name called) who fails to report the commission of an offence under sub-section (1) of section 19 in respect of a subordinate under his control, shall be punished with imprisonment for a term which may extend to one year and with fine.

(3) The provisions of sub-section (1) shall not apply to a child under this Act.

14. Maximum punishment for commission of the offence under Section 21(1) of the POCSO Act is 6 months, whereas maximum imprisonment for the offence under Section 21(2) of the POCSO Act is 1 year.

15. Applicant has already undergone imprisonment for a period of 6 months as on date.

16. Section 479(1) of the BNSS reads as follows :-

“479. Maximum Period for which undertrial prisoner can be detained. -

(1) Where a person has, during the period of investigation, inquiry or trial under this Sanhita of an offence under any law (not being an offence for which the punishment of death or life imprisonment has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on bail :

Provided that where such person is a first-time offender (who has never been convicted of any offence in the past) he shall be released on bond by the Court, if he has undergone detention for the period extending up to one-third of the maximum period of imprisonment specified for such offence under that law :

...

17. Considering the maximum period of imprisonment for the offence in the present crime, that may be attracted against the Applicant would be 1 year, Applicant having already undergone imprisonment for a period of 6 months, would entitle the Applicant to take the benefit of provisions of Section 479(1) of the BNSS. Mr. Akshay Bankapur, learned Advocate for the Applicant submits that the Applicant does not have any criminal antecedents and he is a first-time offender.

18. In view of the above, the Applicant is entitled to bail. Hence, the present Bail Application is allowed on the following conditions :-

- a. Applicant is directed to be released on bail in connection with Crime No. 58 of 2025 registered with Ghoti Police Station, District-Nashik Rural for the offences punishable under Sections 64, 65(1), 75 & 45 of the BNS and Sections 4, 6, 8, 12, 17 & 21 of the POCSO Act on executing P.R. Bond in the sum of Rs. 10,000/- (Rupees Ten Thousand Only) with one or two sureties in the like amount to the satisfaction of the Special Judge (Atrocities on Women) and Additional Sessions Judge-5, Nashik.
- b. Applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of accusation, so as to dissuade such a person from disclosing the facts to the Court or

to any police personnel.

- c. Applicant shall not tamper with the prosecution evidence and shall not contact or influence any witness in any manner.
- d. Applicant upon his release from jail, within a period of three days from his release, shall furnish his cell phone number and residential address with proof to the Investigating Officer, Ghoti Police Station, District-Nashik Rural and shall keep the same updated, in case of any change thereto.
- e. Applicant shall co-operate in the conduct of the trial and shall regularly attend the hearing of Special (POCSO) Case No. 93 of 2025, pending on the file of Special Judge (Atrocities on Women) and Additional Sessions Judge-5, Nashik, on each and every date, unless exempted from appearance.

19. Criminal Bail Application No. 2072 of 2025 stands disposed of in the abovesaid terms.

[ASHWIN D. BHOBE, J.]

Digitally signed
by GITALAXMI
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KOTAWADEKAR
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