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

BAIL APPLICATION NO.2165 OF 2025

Sachin Mahesh Mahato	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

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Mr. Akshay Kajaria with Devang V. Thakkar for the applicant.

Ms. Mahalakshmi Ganapathy, APP for the State-respondent No.1.

Ms. Priyanka B. Chavan for respondent No.2 (Appointed as Legal Aid Counsel).

CORAM : AMIT BORKAR, J.

DATED : AUGUST 11, 2025

PC.:

1. The present application is filed by the applicant under Section 483 of the Bharatiya Nagarik Nyaya Sanhita, 2023, seeking his release on regular bail in connection with Crime No. 221 of 2023 registered with Badlapur (East) Police Station. The offences alleged are under Sections 363, 376(2), 376(j)(l), 376(3), 376(DA), 342, 506 read with 34 of the Indian Penal Code, 1860, and Sections 4(2), 5(k), 5(g) and 6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act" for short). These are serious charges involving allegations of kidnapping and aggravated penetrative sexual assault on a minor girl.

2. As per the First Information Report (FIR), the complainant has stated that on 12th August 2023 at about 9:30 p.m., the victim child, aged below eighteen years, went missing while playing in the open ground outside her house. CCTV footage from a nearby location allegedly showed her riding pillion on a scooter with an unknown person. The FIR was initially registered under Section 363 IPC for kidnapping. Later, during the investigation, the victim gave a statement stating that she had left home after being scolded by her grandmother. She was first intercepted by one Ravi from her society, but she refused to return home. Thereafter, one person named Sachin allegedly offered to drop her home but instead took her to a shed and committed forcible sexual intercourse with her. The victim stated that in the morning Sachin called someone named Ajit, who came to the spot and removed both of them from the shed. Thereafter, she was dropped near Khadani, where she was found by her parents and society members and taken to the police station.

3. The learned advocate for the applicant submitted that the applicant was arrested on 13th August 2023 and that there are major inconsistencies in the victim's version. It is pointed out that the victim's first statement, recorded on 13th August 2023, only referred to Sachin as the person who committed the sexual act and to Ajit as the person who removed them from the shed, without naming the present applicant in that capacity. However, in her in-camera statement recorded after more than a month, on 14th September 2023, she gave a changed version, stating that two scooters came, the accused threatened her, took her to the shed,

and thereafter all three accused, including the present applicant, had sexual intercourse with her.

4. The learned counsel submitted that the victim has lodged another FIR on 30th October 2023 for similar offences, which casts doubt on the credibility of her statements. He further pointed out that the mobile phone panchnama was conducted after an unexplained delay of 11 days, that the clothes of the victim did not have semen or blood stains, and that the medical examination revealed no external or internal injuries on her body or genitals. It is also submitted that the CCTV footage shows the victim accompanying the applicant and others without resistance, suggesting her voluntary presence. He further submitted that two co-accused have already been granted bail and, applying the principle of parity, the applicant is also entitled to the same relief.

5. On the other hand, the learned APP, supported by the appointed advocate for the victim, opposed the application. They pointed to the CCTV panchnama which allegedly shows the applicant with the co-accused entering and leaving the shed with the victim. It is submitted that the mobile phone seized from the applicant contains photographs of him with the victim taken on 12th and 13th August 2023. The medico-legal examination of the victim has recorded findings consistent with sexual assault. The victim, in her first statement recorded soon after the incident, has named the applicant as one of the persons who committed the offence of penetrative sexual assault. It is further pointed out that the victim is a person with intellectual disability and behavioural problems, as certified by the treating doctor, which makes her

vulnerable. An independent eyewitness has identified the applicant as being present with the victim at the scene. The call detail records (CDR) of the applicant place him in the location of the shed on the relevant night. Another witness saw the applicant with the victim in the shed at around 11:30 p.m. on 12th August 2023. In view of the nature of the offence, the gravity of the allegations, and the corroborative material available, they prayed that the bail application be rejected.

6. I have considered the rival submissions, perused the case papers, and examined the nature of allegations and the evidence collected so far. The victim in the present case is admittedly a minor and has also been certified by a medical professional to be a person with intellectual disability and behavioural problems. This makes her a vulnerable witness, and the law recognises that such victims require special protection. The offences alleged are of a grave nature, attracting stringent punishment under both the IPC and the POCSO Act.

7. While the learned advocate for the applicant has pointed out certain inconsistencies in the victim's statements, it is well-settled that at the stage of considering bail, the Court is not expected to conduct a meticulous examination of contradictions or minor variations, unless they completely demolish the prosecution case. The variations pointed out here relate to the sequence of events and the number of persons involved, but the core allegation of sexual assault remains consistent.

8. The prosecution case does not rest merely on the bare

statement of the victim but is supported by several independent and corroborative pieces of evidence.

9. First, the CCTV panchnama clearly records the presence of the applicant along with the victim, both entering and later leaving the shed where the incident is alleged to have taken place. Such electronic evidence, collected through a proper panchnama, is considered reliable at the stage of bail, as it directly links the accused to the location of occurrence during the relevant time frame.

10. Second, the photographs of the applicant and the victim, taken on the dates of the alleged incident, have been recovered from the applicant's own mobile phone. This recovery is significant, as it indicates that the applicant was in close contact with the victim during the critical period and was in a position to capture such images. These photographs, coupled with the CCTV footage, create a chain of circumstances placing the applicant in the company of the victim.

11. Third, there is the evidence of an independent eyewitness, who has identified the applicant with the victim at the relevant place and time. Independent witness testimony, particularly when the witness is not related to the victim, carries considerable weight in supporting the prosecution version at the bail stage.

12. Fourth, the Call Detail Records (CDR) of the applicant's mobile phone show his location in the vicinity of the shed at the material time. CDR evidence, when consistent with other materials, further corroborates the presence of the accused at the

scene and strengthens the prosecution's case.

13. Lastly, the medical examination report of the victim contains findings consistent with sexual assault. While the defence has argued about the absence of visible injuries or semen stains, it is settled law that the absence of such evidence is not fatal at this stage. Courts have recognised that sexual assault can occur without leaving physical injuries, especially in cases involving minors or persons with intellectual disabilities.

14. Taken together, these materials form a prima facie chain of evidence linking the applicant to the alleged offence. At the stage of bail, the Court is not required to conduct a detailed trial-like evaluation but only to assess whether there exists sufficient material connecting the accused with the crime. Here, the cumulative effect of the CCTV footage, photographs, eyewitness identification, CDR location data, and medical findings provides strong prima facie support to the prosecution's case, making it unsafe to enlarge the applicant on bail at this stage.

15. The argument that the victim accompanied the accused persons willingly cannot, at this stage, weaken the prosecution case, as the law under the POCSO Act treats any such consent by a child as legally irrelevant. Similarly, the absence of injuries or semen stains is not, by itself, conclusive to discard the allegation of penetrative sexual assault, as it is now judicially recognised that such assault can take place without leaving physical injuries.

16. The principle of parity also does not assist the applicant in the present case. The specific role attributed to the applicant in the

victim's in-camera statement and the presence of corroborative material against him distinguish his case from that of the co-accused who have been granted bail. Parity applies only when the role and circumstances are substantially identical, which is not so here.

17. Considering the gravity of the offence, the vulnerability of the victim, the nature of supporting evidence, and the possibility of the applicant influencing witnesses if released, I am of the view that no case is made out for grant of bail at this stage.

18. Accordingly, the bail application stands rejected.

19. The bail application is disposed of.

(AMIT BORKAR, J.)