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

BAIL APPLICATION NO. 2286 OF 2025

Hemant Yogesh Gautam ... Applicant
V/s.
 State of Maharashtra and anr ... Respondents

Mr. Taraq Sayed, a/w Mr. Anish Pereir, Ms. Ashwini Achari, for the applicant.

Ms. Anandini Fernandes, for respondent no.2 (appointed as legal aid).

Mrs. Rajashree V Newton, APP for respondent No.1-State.

Mr. Arshad Shaikh, PSI, Dighi Sagari Police Station, Raigad.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 6, 2025

P.C.:

1. This bail application is filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS). The applicant seeks regular bail in connection with Crime Register No. 70 of 2024 registered with Dighi Sagri Police Station for the offence punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and Sections 4, 6, 8, and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO).

2. The case of the prosecution, in brief, is that the complainant resides with her family at Konde Panchtan, Borli Panchtan, Taluka

Shrivardhan, District Raigad.

3. According to the prosecution, in November 2023, the victim, who is the daughter of the complainant, received a call from the applicant. When the complainant questioned the victim about it, she came to know that the victim was having a love affair with the applicant. The complainant thereafter warned the applicant not to contact the victim again.

4. On 8 May 2024, around 10:00 p.m., the applicant, along with his friend, came to the victim's village. When the villagers came to know about his presence, they caught hold of him and took him to Dighi Sagri Police Station. The police questioned the applicant, who stated that he was in a love relationship with the victim and had come to meet her. The police warned him and allowed him to go.

5. On 27 May 2024, the complainant, along with her husband and children, shifted to Vashi, Navi Mumbai, and started living in a rented premises. After about 20 days, on 13 June 2024, the complainant returned to her native place along with her other daughter and son, while the victim and her father continued to reside at Vashi.

6. The victim's father used to leave for work at 8:00 a.m. and return home late at night around 11:00 p.m. On 18 July 2024, when the complainant tried to contact the victim, her calls went unanswered. The complainant then informed the victim's father and also asked the neighbours to check on her. Later that night, around 10:00 p.m., the complainant came to know that the victim

was found unconscious in the bathroom and was taken to Vashi Municipal Hospital. On reaching the hospital, the complainant learnt that the victim had delivered a baby in the bathroom and the newborn was found near her. The victim was declared dead at 11:10 p.m. on 18 July 2024. The baby was admitted for treatment but died on 20 July 2024 at 4:50 a.m. Accidental death reports were registered for both the victim and the baby at Vashi Police Station.

7. The complainant later lodged a Zero FIR against the applicant under Section 64(1) of the BNS read with Sections 4, 8, and 12 of the POCSO Act. The said FIR was transferred to Dighi Sagri Police Station, Raigad.

8. The learned Advocate for the applicant relied upon the FIR and other material on record to submit that the case indicates a consensual relationship between the applicant and the victim, who was about 17 years and 4 months old at the time of the alleged incident. It was submitted that the victim concealed her pregnancy, which led to medical complications and her unfortunate death. The learned Advocate submitted that considering the age of both the applicant and the victim, and the nature of allegations, the applicant deserves to be released on bail.

9. On the other hand, the learned APP and the Advocate representing respondent No. 2 opposed the application. They submitted that the allegations are grave and the DNA report confirms that the applicant is the biological father of the deceased victim's child. They therefore prayed for rejection of the bail

application.

10. I have carefully considered the rival submissions and examined the material placed on record. The primary allegation against the applicant is that he had physical relations with the victim, who was a minor, which allegedly resulted in her pregnancy and subsequent death. The prosecution has invoked the provisions of Section 64(1) of the Bharatiya Nyaya Sanhita, 2023, and Sections 4, 6, 8, and 12 of the POCSO Act.

11. The factual narrative shows that the relationship between the applicant and the victim was of a consensual nature. The material on record, including the statements of witnesses, does not suggest the use of force, coercion, or inducement by the applicant. The prosecution itself admits that the two were in a love relationship and that the applicant had earlier been warned by the complainant to stay away from the victim. Despite this, the victim continued her association with the applicant, which indicates that the relationship was voluntary on her part.

12. The age of the victim, as noted, was about 17 years and 4 months at the relevant time. While the POCSO Act treats any physical relationship with a minor as an offence, the Court cannot ignore the surrounding circumstances indicating that the act arose out of youthful intimacy rather than any exploitative conduct. The relationship was known to the complainant, and there is no allegation that the applicant had enticed or abducted the victim.

13. The unfortunate death of the victim appears to have resulted from complications during childbirth and not from any act of

violence or cruelty attributed to the applicant. The accidental death report recorded by the Vashi Police Station also supports this aspect. There is no material on record to suggest that the applicant had any role in causing the death of the victim or the child.

14. The applicant has remained in custody since his arrest. The investigation is substantially complete, and the charge sheet has been filed. The DNA report, though adverse to the applicant, merely establishes paternity and not criminal intent or coercion. Continued detention of the applicant would therefore serve no fruitful purpose, as further custodial interrogation is not required.

15. The applicant is a young man with no previous criminal antecedents. There is no material to suggest that he would abscond or tamper with evidence if released on bail. Appropriate conditions can be imposed to secure his presence during trial and to ensure that he does not attempt to influence witnesses.

16. The Supreme Court has consistently held that the object of bail is to secure the appearance of the accused at trial and not to punish him by pre-trial detention. Liberty cannot be curtailed except for valid reasons. The seriousness of the charge, though relevant, cannot outweigh the absence of material showing active criminality beyond the admitted relationship.

17. Considering the nature of the allegations, the age of both the victim and the applicant, the absence of antecedents, and the completion of investigation, this Court is of the opinion that the applicant has made out a case for grant of bail.

18. Hence, following order is passed:

i) The applicant is directed to be released on regular bail in connection with C.R. No. 70 of 2024, registered at Dighi Sagri Police station, for the offence punishable under section 64(1) of BNS, 2023 and section 4, 6, 8, 12 of the POCSO, 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.

(b) The applicant shall report to the concerned Police Station once a month, specifically on the 1st day of each month, between 10 a.m. and 12 noon, until further orders by the trial court.

(c) The applicant shall appear before the Trial Court on every date of hearing unless exempted.

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

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

(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.

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

19. The bail application is allowed and disposed of.

(AMIT BORKAR, J.)