

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2344 OF 2025**

Firoz Ali Hasan Khan ...Applicant
Versus
State Of Maharashtra and Anr. ...Respondents

None for the Applicant.

Mr. Kiran C. Shinde, APP for the State-Respondent.

Ms. Meghna Gowalani, for Respondent No.2-victim.

PSI – R. T. Dalvi, Mumbra Police Station, Thane City, is
present.

CORAM Dr. Neela Gokhale, J.
DATED: 25th September 2025

PC:-

- 1.** None for the Applicant.

- 2.** The Applicant seeks his release on bail in connection with C.R. No. 2098 of 2024 dated 25th October 2024 registered with Mumbra Police Station, Thane for offences punishable under Section 65(2), 351(2) of the Bharatiya Nyaya Sanhita, 2023 and Section 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

3. The case of the prosecution in brief is that the victim was a mere 8 years old girl. On 24th October 2024 in the evening at about 8.10 p.m., she went to the shop of the Applicant to purchase wafers. She returned home with the package of wafers as well as two lollipops. After some time, she started vomiting. When her mother i.e. the Complainant/First Informant inquired with her, she started crying and narrated to her mother that the Applicant i.e. the shopkeeper, aged about 59 years, took her inside his shop and made her sit down. He moved his hand on her private part and forced her to touch his own private part. Thereafter, he forced her to engage in oral sex with him. He, thereafter, threatened her that if she revealed the said incident to anybody, he would kill her. The First Informant-mother immediately, went to the shop but the shop was closed. In these circumstances, she filed the complaint and thereafter the FIR came to be registered. The Applicant filed a bail application before the Special Judge under POCSO Act (Thane). By order dated 2nd May 2025, the said bail

application was rejected. Hence, he has filed the present application for the reliefs as prayed

4. Despite repeatedly calling the counsel for the Applicant, none appeared. The name of the Applicant was also flashed on the screen, yet none appeared to represent the Applicant. Hence, I proceeded to hear the learned APP as well as the counsel appointed to represent the Respondent No.2.

5. Mr. Kiran Shinde, learned APP representing the State, brought to my attention the statement of the victim recorded by the police. She has narrated, quite clearly, the incident as it happened. He further brought to my attention, the medical report in respect of the minor child. Mr. Shinde stated that the victim was a mere 8 years old girl, whereas the Applicant was of 59 years. Mr. Shinde submits that the next date before the Trial Court is 1st October 2025 on which date the charges are likely to be framed.

6. Mr. Meghna Gowalani, learned Advocate appointed from the Legal Aid Services representing the Respondent No.2 also supported the arguments of Mr. Shinde.

7. I have heard Mr. Shinde as well as Ms. Gowalani. I have gone through the statement of the victim given to the police as well as that recorded under Section 164 of the CrPC. Both the statements are consistent with the statement of the mother i.e. the First Informant given to the police as also corroborates the story narrated by the victim. The medical report recording the history of sexual violence also gives the description of the incident as narrated by the young girl. The same is also consistent with the other statements.

8. Considering the aforesaid, the prosecution has established a clear timeline showing the date and time of the incident. The FIR was lodged immediately after the victim narrated the incident to her mother on the very next morning. The allegation against the Applicant involves a serious sexual offence against the minor. The charges under Sections 4, 6

and 8 of the POCSO Act are grave and serious in nature and carry a severe punishment. Given the nature of allegations and the fact that the victim was a minor girl of 8 years, and the Applicant was 59 years old, there exists a reasonable appreciation that if he is released on bail, he may attempt to influence the victim or other witnesses. The shop of the Applicant is in direct vicinity of the house of the victim. The victim is particularly vulnerable to intimidation or pressure which can seriously compromise the trial.

9. While bail is indeed the rule and jail is the exception, this general principle must be balance against the circumstances of each case, particularly while dealing with offences relating to children.

10. In the facts of the present case, the prosecution has *prima facie* established commission of an offence by the Applicant, based on the victim's statement, the medical evidence and other corroborative materials. In this view of the matter, I am not inclined to grant bail to the Applicant.

11. The application is accordingly rejected.

12. It is made clear that the observations made herein are confined to the present application and the learned Trial Court to deal with the matter on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)