

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2762 OF 2025**

Govind Ashrafilal Gaud	...Applicant
Versus	
State Of Maharashtra and Anr.	...Respondents

Mr. Siddharth Jagushte, *for the Applicant.*
Ms. Anamika Malhotra, *APP for the State-Respondent No.1.*
Mr. Sangramsinh Parab, *for Respondent No.2.*
PSI – Sanjay S. Ghag, *Pairavi Adhikari, Malwani Police Station, is present.*

CORAM	Dr. Neela Gokhale, J.
DATED:	9th October 2025

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 1005 of 2022 dated 29th July 2022 registered with Malwani Police Station for offences punishable under Sections 363, 366(A), 368, 376, 376(2)(n), 376(3) of the Indian Penal Code, 1860 ('IPC') and Sections 4, 5(l), 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

2. The victim is stated to be 13 years old and the Applicant 19 years old at the time of the incident.

3. The facts of the case, in brief, are that the victim had run away from her house on account of some quarrel with her mother. Thereafter, on two to three occasions, she left her house and, while traveling in the railway, met the Applicant, who befriended her and started meeting her. According to the prosecution, the Applicant lured her with a false promise of marriage, pursuant to which they had sexual relations on multiple occasions. Hence, the victim being a minor girl, the FIR was registered with the alleged offenses, including under the POCSO Act. Initially, the FIR was registered with Section 363 of the IPC. However, upon investigation, the additional charges were also invoked.

4. The Applicant made an application before the Sessions Court, Dindoshi seeking bail. However, by order dated 17th January 2022, his bail application was rejected. Thereafter, the Applicant made two successive applications, both were

rejected by the Sessions Court. Hence, the Applicant has made the present application for the relief as prayed.

5. Mr. Siddharth Jagushte, learned Counsel for the Applicant, at the outset, submits that there are a series of complaints made by the mother of the victim pertaining to her going missing. Along with the application, he has placed on record one such FIR made by the victims mother, reporting the victim as 'missing'. He thus, submits that the victim was a known to run away from home, on account of some quarrels with her family members.

6. Mr. Jagushte further submits that the statement of the victim given to the doctor also indicates that there was an element of consent on the part of the minor victim, to the said relations. She had even started residing with him. However, when the Applicant's father discovered their residence, he sent the victim back to her house. In any case, Mr. Jagushte submits that the Applicant was a mere 19 years old boy at the time of offence. He has already suffered incarceration for the

past 3 years and 21 days. Charges are framed only recently and it is not likely that the trial will conclude in the near future. Hence, he prays that the Applicant be released on bail.

7. Ms. Anamika Malhotra, learned APP, contests the bail application on the ground that the victim was a minor then and is still a minor now. Hence, charges under the POCSO Act are invoked. Charges are framed. She submits that only 15 witnesses are proposed to be examined by the prosecution. She further submits that even the statement of the victim has not been recorded as yet. In these circumstances, she prays that the bail application be rejected.

8. Mr. Sangramsinh Parab, learned Counsel appointed to represent Respondent No.2, also resists the bail application. He supports Ms. Malhotra's arguments and submits that the Applicant, if granted bail, is likely to intimidate the victim, who is still minor and hence, the bail application be rejected. He also submits that the element of consent is not significant since the offenses are under the POCSO Act.

9. I have heard learned Counsel appearing for respective parties and perused the record with their assistance.

10. Admittedly, the victim was a minor at the time of commission of the said offense by the Applicant. The Applicant himself was only 19 years of age at that time. I have gone through the statement of the victim, although not competent to give her consent, it does appear that there was a sort of affection between the parties. Even the statement given to the medical doctor by the victim indicates that the Applicant and the victim also met at friend's place and had sexual relations. What troubles me the most are the subsequent FIRs filed by the victim's mother regarding the victim running away from home time and again, leading me to be apprehensive about the veracity of the prosecution story. The Applicant is in jail since 2022 and has already suffered 3 years and 21 days of incarceration. I am of the view that it is not desirable for the Applicant to continue in custody and associate with hardened criminals. Mr. Jagushte has stated

that the Applicant is a student and was studying in the college. Since the statement of the victim is not yet recorded and in order to secure deposition of the victim, without fear, the Trial Court is directed to record the statement of the victim within a period of one month from the date this order is presented before the Trial Court. In these circumstances and in view of the aforesaid, I am of the view that this is a fit case to grant bail to the Applicant and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant is permitted to furnish provisional cash bail of Rs.25,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.25,000/- within a period of four weeks after his release, which shall be accepted by the Trial Court. The Applicant shall provide the sureties as directed;

iii) Till such time that the statement of the victim is recorded, the Applicant shall not enter the jurisdiction of Malwani Police Station;

iv) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court;

v) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station;

vi) The Applicant shall not leave India, without permission of the trial Court;

vii) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

viii) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;

ix) The Applicant to co-operate with the conduct of the trial;

x) Any infraction of the aforesaid conditions shall entail cancellation of bail.

11. Application is allowed in the above terms and is accordingly disposed of.

12. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(Dr. Neela Gokhale, J)