

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

CRIMINAL BAIL APPLICATION NO.2838 OF 2025

Hassan Khan

....Applicant

Versus

State of Maharashtra and anr.

....Respondents

Mr. Ramprakash Pandey a/w Mr. Udayhan Tiwari for the Applicant

Ms. Kranti T. Hiwrale, AGP for Respondent No.1 - State.

ASI Bhosale Jogeshwari Police Station, Mumbai, present.

CORAM : ABHAY J. MANTRI, J.

DATE : 13th FEBRUARY, 2026

P.C. :-

1. The Applicant has moved this Application to release him on bail in connection with Crime No.71 of 2025 registered with Jogeshwari Police Station, Mumbai, for the offences punishable U/ss 137(2), 65(2), 70(2), 74, 351(2), 3(5) of Bhartiya Nyaya Sanhita (for short, the '**BNS Act**') and U/ss 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 (for short, '**POSCO Act**').

2. Heard the learned Advocate for the Applicant as well as the learned APP for the State. None appears for the victim/informant, either in the court hall or through video conferencing, when the matter is called out.

3. Perused the chargesheet and record.

4. On 26th February, 2025, Mr. Mohammad Yasub Fakir Mohammad Khan lodged a report at the Jogeshwari Police Station, alleging that at about 9.30 pm on 24/2/2025, the victim went to meet her grandmother but did not return home until 6 pm on 25/02/2025. He had searched for the victim, but in

vain; therefore, he lodged a complaint with the police station, stating that some unknown person might have kidnapped her. Based on that complaint, an offence was registered.

5. During the investigation, the police found the victim. Accordingly, they recorded her statement, wherein she stated that Applicant, along with four others, had deceived her and taken her with them and committed rape on her. Accordingly, Section 3(5) of the BNS Act, 2023, came to be added to the crime. Upon completion of the investigation, the police have filed the charge sheet.

6. The learned Advocate for the Applicant vehemently contended that the Applicant was not involved in the present crime and that he had not played any role in the alleged crime. There are no allegations against him of committing rape on the victim in the FIR. He has drawn my attention to the statement of the victim at page 57 (Question nos.15/16) and the statement of the witnesses and the supplementary statement of the victim at page no.79, wherein she has not made any allegations against the Applicant about his involvement in the crime. Similarly, he has pointed to the history recorded by the Doctor at Cooper Hospital and the medical report. Therefore, he submitted that Section 137(2) and 70 (2) are not attracted against the Applicant. Since then, the applicant has been incarcerated. Therefore, he has urged that the Applicant be released on bail.

7. On the other hand, the learned APP strenuously argued that the victim is 12 years old. The Applicant, along with four others, in furtherance of their common intention, has committed rape on her. As such, Section 70(2) is attracted against the accused persons. The victim is a minor girl, and the crime is

of a very serious nature. She has also pointed out the victim's birth certificate in the chargesheet, as well as the medical report on record. She submitted that the offence is serious and that, if the Applicant is released on bail, he may tamper with the prosecution's evidence and witnesses. Therefore, she prayed for the rejection of the Application.

8. On perusal of the FIR, the chargesheet and statements of the victim recorded by the police on 28th February, 2025, prima facie it appears that the Applicant was accompanied by the co-accused. It also appears that at the time of the incident, the victim was 12 years old. During the TI Parade, the victim had identified the Applicant. In the medical report, the doctor opined that "*sexual assault cannot be ruled out*".

9. Thus, prima facie it appears that the Applicant, along with the co-accused, deceived the minor victim and took her away with them and committed sexual assault on her. *Prima facie*, it indicates that the Applicant, along with other co-accused, in furtherance of their common intention, has committed the crime. The allegations against the applicant are of a serious nature, and his complicity in the offence is prima facie demonstrated. Therefore, in my view, though the investigation has been completed, it would not be proper to release the Applicant on bail.

10. As a result, the Bail Application is rejected. The Application is disposed of.

(ABHAY J. MANTRI, J.)