

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

Bail Application No. 3376 of 2025

Somnath Bhivaji Gaikwad

(Presently lodged at Yerwada Central Jail)

Age : 34 years, Occupation: Business,

R/at.: Pandavnagar, Near Ganesh

Mandir, Wadkigaon, Tal.-Haveli,

District – Pune.

... Applicant

versus

1. The State of Maharashtra

Through : Hadapsar Police Station,

(In C.R. No. 1546 of 2020)

2. The Original Complainant

Through : Hadapsar Police Station,

(In C.R. No. 1546 of 2020)

... Respondents

Mr Dushing Vipul a/w Mr TS Kate i/b AR Chikate for the Applicant.

Mr Arfan Sait, APP, for Respondent / State.

Mr Shrinidhi Sonak, for Respondent No.2.

PSI A N Binawade, Hadapsar Police Station, Pune, is present.

Coram: R.N. Laddha, J.

Date: 3 December 2025

P.C.:

Heard Mr Vipul Dushing, the learned Counsel appearing on behalf of the applicant, Mr Arfan Sait, the Additional Public

Prosecutor representing respondent No.1/State, and Mr Shrinidhi Sonak, the learned Counsel appearing for respondent No.2.

2. This is the applicant's third application seeking bail in connection with CR No.1546 of 2020, registered at Hadapsar Police Station, Pune, for offences punishable under Sections 363, 366A, 376, 376(3)(n), 376D, and 376DA of the Indian Penal Code, and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. The prosecution alleges that on 26 October 2020, the minor victim, aged approximately 15 years, left her parental home following a domestic altercation with her mother. While she was *en route*, she was allegedly accosted by accused Nikhil @ Anand @ Sagar Shinde, who, in furtherance of a common intention and in connivance with co-accused Sumit Shinde, took her to a residential flat. There, they subjected the minor to forcible sexual intercourse. Thereafter, the victim was purportedly abandoned at the Hadapsar Bus stop, where she was approached by co-accused Mohan under the pretext of offering assistance. It is alleged that Mohan initially took the victim to a premises situated at Shreyas Heights, Bhekrai Nagar, Pune, and subsequently to his own residence at Bopgaon, where

he repeatedly subjected her to sexual assault. Mohan is then alleged to have contacted his cousin, co-accused Avinash and the two transported the victim in a Maruti Swift vehicle to Dive Ghat Hill. There, they allegedly consumed alcoholic beverages and compelled the victim to ingest the same, following which Avinash is said to have committed sexual assault upon her within the confines of the vehicle.

4. It is further alleged that Avinash thereafter contacted the present applicant, and the victim was taken to the residence of Mohan, where Avinash and the applicant are alleged to have committed rape upon her.

5. The learned Counsel appearing on behalf of the applicant, asserting the applicant's innocence, contends that the applicant has been falsely implicated in the present case. It is submitted that the investigation is complete, a charge sheet has been filed, and the trial has progressed. The victim, in her testimony, has not made any incriminating statements against the applicant, and no specific overt act has been attributed to the applicant. It is further argued that the victim did not identify the applicant. The learned Counsel points out that, by an order dated 18 April 2024, this Court directed that the trial be completed within nine months; however, the trial has not yet concluded,

and time has been extended till 18 January 2026 for its completion. There is nothing to be recovered from the applicant. Furthermore, the informant vide a letter dated 5 June 2025 expressed his no objection to granting bail to the applicant. About eleven witnesses have already been examined, including the victim; thus, it is argued that the risk of the applicant tampering with evidence or influencing witnesses does not survive. The applicant has been languishing in jail since 30 October 2020, and his continued detention would serve no purpose.

6. On the other hand, the learned Additional Public Prosecutor representing respondent No.1/ State and the learned Counsel for respondent No.2 jointly oppose the applicant's request for bail. They submit that the applicant, along with the co-accused, committed penetrative sexual assault on the victim. The offence is grave and serious. The CCTV footage and the Call Detail Records demonstrate the applicant's involvement in the commission of the offence. It is further submitted that the trial has commenced, and 13 witnesses have already been examined and PW 14 is in the witness box. On a day-to-day basis, the trial is in progress and the trial is directed by this Court to conclude by 18 January 2026. It is contended that the grant of bail at this juncture would seriously prejudice the

prosecution, as the applicant is likely to tamper with evidence and intimidate witnesses.

7. This Court has given anxious consideration to the rival contentions canvassed across the Bar and perused the records. The factual matrix discloses a series of aggravated sexual assaults perpetrated against the victim, a minor child aged about 15 years, by the applicant and the co-accused. The victim was first subjected to forcible sexual intercourse by accused Nikhil and Sumit Shinde. Subsequently, she was intercepted by Mohan, who took her to two different locations, including his residence, and repeatedly assaulted her sexually. Mohan then conspired with his cousin, Avinash; they took the victim to Dive Ghat hill, forced her to consume liquor, and Avinash committed a further sexual assault. Finally, Avinash contacted the applicant, and the two men allegedly committed rape on the victim at Mohan's house. It is contended that the victim, in her testimony, does not attribute any role to the applicant; however, it is essential to note that this Court, in its order dated 18 April 2024, categorically observed that the accused were influencing the witnesses. The trial is in its crucial and terminal stage and PW-14 is presently under the witness box. The trial is already under a strict, time-bound mandate to conclude by 18 January 2026. The apprehension expressed by the prosecution

that the applicant, if enlarged on bail, may influence witnesses is not unfounded.

8. The seriousness and gravity of the offence, coupled with the attempts to exert influence on witnesses, militate against the grant of bail. The POCSO Act was enacted to safeguard children from sexual crimes, prioritising the welfare of the child over the interests of the perpetrators, thereby making it essential to establish a balance between safeguarding the rights of the accused and honouring the needs of victims. Considering that the victim is a minor, the trauma she endured can profoundly affect her adolescent years, leaving her with lasting and irreparable psychological scars.

9. In light of the foregoing, this Court, at this stage of the trial, is not inclined to exercise its discretion in favour of the applicant. As a result, the present application stands rejected.

10. The trial Court is directed to continue the trial expeditiously, in accordance with the mandated timeline. It is clarified that the observations set out herein are of a *prima facie* nature and are made solely for the purpose of deciding the present bail application.

(R.N. Laddha, J.)