

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

BAIL APPLICATION NO. 3762 OF 2025

Rohit Jayesh Kom Applicant
versus
The State of Maharashtra & Anr. Respondents
.....

Mr. Aakash Desai a/w Mr. Gaurav Changrani i/b. Ms. Ketki Malavkar, Advocate for Applicant.

Ms. Anamika Malhotra, APP for the State/Respondent.

Ms. Disha R. Kothari, Advocate for the Respondent No.2.

PSI – Mr. Sachin Pawar, attached to Madhyavarti Police Station, is present.

CORAM : DR. NEELA GOKHALE, J.
DATE : 09th DECEMBER, 2025

P.C.: -

1. The Applicant seeks his release on bail in connection with FIR No.77/2025 dated 18/02/2025 registered with Boisar Police Station, Palghar, for the offences punishable under Sections 64, 64(2)(i) and 65(1) of the Bharatiya Nyaya Sanhita (BNS), 2023 and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

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2. The FIR is registered at the instance of Dr. Umesh Ahire. The said Doctor has made the complaint to the police in pursuance of a statutory obligation under the POCSO Act. He has stated that on 18.02.2025, when he was in his clinic, a minor girl came to his clinic and informed him that she was impregnated by her fiancée namely Rohit, the Applicant herein. She was in the 5th or 6th month of pregnancy. The First Informant - Doctor examined her birth certificate and found that the said girl was a minor. Hence, the Doctor as a concerned and law-abiding citizen informed the police, pursuant to which the FIR came to be registered.
3. On the statement given by the victim, the Applicant was arrested on 19.02.2025. At the time of incident, the victim girl was a minor being only 15 years of age and the Applicant was 20 years old.
4. Mr. Aakash Desai, learned counsel appearing for the Applicant, submits that there was a relationship between

the Applicant and the minor girl and the relationship led to sexual intercourse. He submitted that even at present, the girl is living with his parents in his house after giving birth to a baby girl. He submitted that his parents are taking care of the minor girl as well as her baby. He submitted that the Applicant and the girl were to marry. He submitted that the Applicant has not committed any offence much less the offence as alleged against him. He thus, prays that the Applicant be released on bail.

5. Ms. Anamika Malhotra, learned APP, however, brings a strange twist to the facts of the case. She submits that the DNA of the baby girl does not match with that of the Applicant. Ms. Malhotra, therefore, on instructions of the Investigating Officer, submits that the statement of the minor girl was again recorded by the police and this time the minor girl surprisingly stated that, she had sexual relations with two other boys and hence the DNA may not have matched with the present Applicant. Ms. Malhotra also submits that, in the peculiar facts of the present case, no purpose will be served by

continuing incarceration of the Applicant.

6. At the very outset, I must record that the facts in the case are quite disturbing. Here is a 15-year-old, in a relationship with the Applicant for the past five years, as stated by the counsel representing the Respondent No. 2, mother of the victim. Thus, the minor girl is being abused since she was a mere ten-year-old. Her father is deceased and her mother apparently has no objection for grant of bail to the Applicant, as her counsel submitted before me. What is more shocking is that, even the FIR is made by the Doctor concerned and not by the girl's mother. The minor girl even today, is residing with and being looked after by the Applicant's parents. The further statement recorded by the police of the minor girl, stating that two other boys also sexually exploited her, in fact, raped her, convinces me that the minor girl is a juvenile in the need of care and protection of law.

7. Considering that the Applicant himself is a mere

20-year-old and the charge sheet being filed; the DNA test report being negative; and the undesirability of the Applicant being forced to interact with hardened criminals in custody, I am inclined to enlarge the Applicant on bail. However, there is a strong apprehension that in the light of the DNA report, the minor girl and her baby may be rendered homeless. A possibility also cannot be denied that she is likely to be influenced by the Applicant and his family. Most importantly, the victim is a child herself, being forced to carry the burden of taking care of a small baby, I deem it appropriate to direct the police to produce the minor girl and her baby before the Child Welfare Committee, which has the jurisdiction to commit the girl and the baby to the care and custody of an appropriate government home or other organization as per the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015.

8. Accordingly, the Applicant is enlarged on bail and it is ordered as under:

ORDER

- (i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.35,000/- with one or two local sureties in the like amount;
- (ii) The Applicant is permitted to furnish provisional cash bail of Rs.35,000/- for his release immediately and file undertaking that he will provide one or two sureties in the like amount of Rs.35,000/- 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) The Applicant shall also 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;
- (iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- (v) The Applicant shall not tamper or attempt to

influence or contact the complainant, witnesses or any person concerned with the case;

- (vi) The Applicant shall not leave India, without permission of the trial Court;
- (vii) 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;
- (viii) The Applicant to co-operate with the conduct of the trial;
- (ix) Any infraction of the aforesaid conditions shall entail cancellation of bail;

9. The Police concerned are directed to produce the minor girl and her baby before the Child Welfare Committee, which in turn, is requested to pass appropriate directions, in terms of the provisions of the Juvenile Justice (Care and Protection of Children) Act, 2015, in the interests of the minor

victim girl and her baby.

10. The Application is allowed in the above terms. However, the learned APP is directed to place on record the orders passed by the CWC, in terms of the present order and file a status report insofar as the minor victim girl and her baby is concerned. For that purpose, List on 23rd December 2025 on the supplementary list

11. It is made clear that the observations made herein relating to the bail granted to the Applicant 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.)