

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.2607 OF 2025

ARJUN
VITTHAL
KUDHEKAR

Digitally signed by
ARJUN VITTHAL
KUDHEKAR

Date: 2025.09.25
23:10:27 +0530

Samir Khandu Kalbhor

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Piyush Toshniwal i/b Harshal Patil, for the Applicant.

Mr. A. R. Metkari, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.

DATED: 24 SEPTEMBER 2025

PC:-

1. This is an Application filed under Section 482 of the *Bharatiya Nagarik Suraksha Sanhita, 2023* (“**BNSS**”), seeking Transit Anticipatory Bail in connection with CR No.299 of 2025 registered with the Burhar Police Station, District - Shahdol, Madhya Pradesh, earlier for the offence punishable under Section 137(2) of the *Bharatiya Nyaya Sanhita, 2023* (“**BNS**”) and thereafter Sections 64, 64(2)(m), 127(2) of BNS and Sections 3, 4, 5(l), 6 and 21 of the *Protection of Children from Sexual Offences Act, 2012* (“**POCSO Act**”) has been added.

2. It is the submission of Mr. Toshniwal, learned Counsel appearing for the Applicant that all the allegations are made

against the Co-Accused. He points out the Order dated 8th September 2025 passed by the learned Special Judge, Burhar, District - Shahdol (Madhya Pradesh), by which the Bail Application of Co-Accused - Sunil Panika has been rejected. The said Order records that the said Co-Accused - Sunil Panika was arrested on 17th June 2025. In the said Order, it is observed as under :-

केस डायरी मय प्रतिवेदन का अवलोकन किया गया, जिसके अनुसार अभियोजन प्रकरण संक्षेप में इस प्रकार है कि पीडिता के पिता/फरियादी की शिकायत के आधार पर थाना बुढार द्वारा अपराध क्र 299/2025 अंतर्गत धारा 137(2) भा. न्या.सं. के अंतर्गत इस आशय की प्रथम सूचना रिपोर्ट दर्ज की गई कि दिनांक 01.05.25 को दोपहर 10 बजे उसकी पुत्री खेलने के लिए जाने के बाद घर वापस नहीं आई, आसपास देखने व रिश्तेदारों में भी पता तलाश करने पर कहीं कोई पता नहीं चला। विवेचना के दौरान साक्षियों के कथन अभिलिखित करने के पश्चात दिनांक 14.06.25 को पीडित बालक को शिव कैलाश होटल शिव शम्भु नगर गली नं.1 थाना विद्यापीठ भारती पुणे महाराष्ट्र से बरामद किया गया है, जिसके उपरांत उसे सुपुर्दगी पर देकर वापस लाकर उसका चिकित्सीय परीक्षण

कराया गया है, अभियोजन द्वारा प्रकरण में जप्तशुदा दस्तावेज, साक्षीगण, पीडित बालक के कथनानुसार आवेदक के विरुद्ध अपराध धारा 137(2) के अतिरिक्त धारा 64, 64(2)(एम), 127(2) भा.न्या.सं. एवं धारा 3/4, 5(एल)/6, 21 पॉक्सो एक्ट का इजाफा किया गया है। केस डायरी में संलग्न दस्तावेजों के अनुसार पीडित बालक प्रथम दृष्टया लगभग 15 वर्ष की आयु होना दर्शित है। आरोपी पक्ष द्वारा यह बचाव लिया गया है कि पीडित बालक वयस्क होकर अपनी मर्जी से घर से कहीं चली गई थी, केस डायरी में संलग्न डीएनए रिपोर्ट पोजिटिव पाई गई है, पीडित बालक की जन्म संबंधी दस्तावेज के अनुसार वह अवयस्क है, इस स्तर पर आरोपी द्वारा उठाये गए तर्क व आपत्ति साक्ष्य के गुणदोष का विषय है। दर्शित अपराध 15 वर्ष की आयु की पीडित बालक के साथ गुरुतर लैंगिक प्रवेशन का आरोप है, जो अत्यंत गंभीर प्रकृति का होकर समाज पर विपरीत प्रभाव डालने वाला प्रकट होता है। प्रकरण की परिस्थितियां एवं अपराध की गंभीरता को देखते हुए प्रकरण के गुण-दोष पर टिप्पणी किये बिना आवेदक/अभियुक्त सुनील पनिका की ओर से प्रस्तुत प्रथम नियमित जमानत आवेदन पत्र अंतर्गत धारा 483 भारतीय नागरिक सुरक्षा संहिता, 2023 निरस्त किया जाता है।

English translation of the same, is as follows :-

“Perused the Case Diary together with the Report, according to which the prosecution case in brief is as under :- On the basis of the complaint of father of victim/complainant, First Information Report of Offence No. 299/2025 under Section 137(2) of the Bharatiya Nyaya Sanhita, has been registered with Police Station

Budhar to the effect that, on the date 01.05.2025 at 10:00 am, his daughter did not return home after going to play. Upon searching in the surrounding area and on inquiring with relatives, she was not found. **After recording the statements of the witnesses during investigation, the victim child was found on the date 14.06.2025 from Shiv Kailash Hotel, Shiv Shambhu Nagar, Lane No. 1, Police Station Vidyapeeth Bharti, Pune, Maharashtra.** Thereafter she was handed over and she was brought back, her medical examination has been conducted. **On the basis of the seized documents and statements of witnesses and victim child, sections 64, 64(2)(M), 127 (2) of the Bharatiya Nyaya Sanhita and Sections 3/4, 5(L)/6, 21 of the POCSO Act in addition to Section 137(2) have been included against the applicant.** As per the documents annexed to the Case Diary, the victim child is prima facie shown to be about 15 years of age. The defence taken by the accused is that, the victim child is an adult and had gone somewhere from the house of her own accord. The DNA report annexed to the Case Diary is found positive and as per the documents related to the birth of the victim child, she is a minor. At this stage, the arguments and objections raised by the accused are subject to the merits of the evidence. The said offence is of a Aggravated/Penetrative Sexual Assault with a victim child of 15 years of age and the same is of a very serious

nature and appears to have an adverse effect on society. Taking into consideration the circumstances of the case and the seriousness of the offence, the first regular bail application filed by the applicant/accused Sunil Panika under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 is rejected without making any remarks on merits of the case.”

(Emphasis added)

3. Mr. Toshniwal, learned Counsel for the Applicant, states that Applicant’s role is that the victim along with Co-Accused were found in the hotel— “Shiv-kailash” and the Applicant is the owner of the said hotel. He also points out the notice dated 10th September 2025 issued by the Officer in charge of the Police Chowki under Burhar Police Station, District - Shahdol (Madhya Pradesh). He points out Page Nos.20 and 21 of Anticipatory Bail Application, wherein the notice has been issued under Section 35(3) of BNSS to the Applicant to remain present before the Court as the Applicant is found to be involved in the offence punishable under Section 21 of the POCSO Act concerning punishment for failure to report or record a case. He submits that the Applicant is not involved in the crime, however, seeks to file Anticipatory Bail

Application as precaution. He further submits that the Applicant be granted Transit Anticipatory Bail for a period of 3 months.

4. However, in the facts and circumstances, the Applicant is granted Transit Anticipatory Bail for a period of 4 weeks in connection with CR No.299 of 2025 dated 4th May 2025 registered with the Burhar Police Station, District - Shahdol, Madhya Pradesh, for the offence punishable under Sections 137(2), 64, 64(2)(m), 127(2) of BNS and Sections 3, 4, 5(l), 6 and 21 of the POCSO Act.

5. Accordingly, the case is made out for grant of Transit Anticipatory Bail. In view thereof, the following Order:

ORDER

(a) In the event of arrest of the Applicant - Samir Khandu Kalbhor, in connection with CR No.299 of 2025 registered with the Burhar Police Station, District - Shahdol, Madhya Pradesh, he be released on bail on his furnishing PR Bond in the sum of Rs.30,000/- with one or two solvent sureties in the like amount.

(b) The Applicant shall appear before the concerned Investigating Officer in connection with the aforesaid

CR No.299 of 2025 on 10th October 2025 and thereafter appear before the Investigating Officer as and when called for the purpose of investigation.

6. The Anticipatory Bail Application is disposed of accordingly.

[MADHAV J. JAMDAR, J.]