

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.3443 OF 2025**

Balu Baburao More & Anr.	...Applicants
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Sujay Gangal a/w. Mr. Harshal Mule, for the Applicants.
Mr. S. A. Karmakar, APP, for the Respondent-State.
Mr. Saeed Shaikh, appointed to represent the Respondent No.2.
Mr. Sudhir Kadam, API, attached to Paud Police Station, Pune Rural, Pune, present.

**CORAM: MADHAV J. JAMDAR, J.
DATED : 19th DECEMBER 2025**

PC:-

1. Heard Mr. Gangal, learned Counsel appearing for the Applicants, Mr. Karmakar, learned APP appearing for the Respondent No.1-State and Mr. Shaikh, learned Counsel appointed to represent the Respondent No.2.

2. This Court by order dated 16th December 2025 has issued notice to the Respondent No.2 and made the same returnable today. Mr. Karmakar, learned APP submits that the Respondent No.2 has been served and she has informed that Advocate through Legal Aid be provided to her.

3. Mr. Saeed Shaikh, learned Counsel has already been appointed to represent the Respondent No.2.

4. This application is filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking pre-arrest bail in connection with C.R. No.286 of 2025 registered with Paud Police Station, Pune Rural, Pune, for the offences punishable under Sections 64(2)(1), 64(2)(m), 65(1) and 3(5) of the Bharatiya Nyaya Sanhita, 2023, Sections 9 and 11 of the Prohibition of Child Marriage Act, 2006 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act 2012 (“**POCSO Act**”).

5. As per the prosecution case, the prosecutrix was admitted in General Hospital at Talegaon Dabhade and she delivered a girl child on 21st October 2025. After noticing that the prosecutrix delivered girl child at the age of 16 years and 9 months, the concerned Doctors informed the police personnel and consequently the police have registered the crime.

6. It is the submission of Mr. Gangal, learned Counsel appearing for the Applicants that there are total 3 accused. Accused No.1 is husband of the victim and the Applicants are the parents of the victim. He submits that the Accused No.1 has been arrested and

granted regular bail. He submits that the Applicants are from tribal community and they are staying in remote area i.e. Katkari Vasti, Taluka-Mulshi, District-Pune. He submits that the Applicants are illiterate. He submits that the Applicants are not involved in the crime and in any case, the Applicants will co-operate with the investigation. He submits that the Applicant No.1 is a labourer and the Applicant No.2 is housewife.

7. On the other hand, Mr. Karmakar, learned APP and Mr. Shaikh, learned Counsel appointed to represent the interest of the Respondent No.2 strongly oppose the Anticipatory Bail Application. Both of them submit that the victim was of 14 years and 2 months when the marriage was solemnized. Both of them submit that at the age of 16 years and 9 months she delivered a child. Thus, the offence is very serious. The consent if any, of the victim is inconsequential. Both of them therefore, submit that the Anticipatory Bail Application be rejected.

8. Mr. Shaikh, learned Counsel appointed to represent the Respondent No.2 relied on the decision of the Delhi High Court in the case of *Jagbir vs. State (N.C.T. of Delhi)*¹. He pointed out paragraph Nos.11 and 12 of the said decision, wherein it has been

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held that as per the settled legal position consent, if any, given by the victim girl for the alleged physical relationship being a minor cannot be treated as a consent in the eyes of law. It has been further held that sexual exploitation and sexual abuse of children are heinous crimes which need to be effectively addressed. It has been further held that merely because such sexual abuse results in tying of knot between the victim and the accused in violation of provisions of law or results in birth of a child, it does not mitigate the act of the accused in any manner, since the consent of a minor is immaterial and inconsequential in law. It has been held that the sexual exploitation by the accused in the facts and circumstances of the case, clearly falls within aggravated penetrated assault as defined in Section 5 of the POCSO Act punishable under Section 6 of the POCSO Act, even if it is claimed that the 'act' was consensual.

9. Perusal of the record shows that the incident in question is very serious as the Applicants who are the parents of the victim have performed the marriage of the victim when she was about 14 years and 2 months. However, it is required to be noted that the said marriage was solemnized in March-2023 and the offence has been registered on 29th October 2025. The Applicants are belonging to tribal community and staying in very remote area of Maharashtra

i.e. at Katkari Vasti, Taluka-Mulshi, District-Pune. The Applicant No.1 is a labourer and the Applicant No.2 is housewife. Both the Applicants are illiterate. There are no criminal antecedents against the Applicants.

10. As far as the reliance of Mr. Shaikh, learned Counsel appointed to represent the interest of the Respondent No.2 on the case of *Jagbir* (supra), the factual position in that case is set out in paragraph Nos.2 to 6, which read as under :-

“2. In brief, as per the case of the prosecution, the aforesaid FIR was registered at Police Station Mayur Vihar on statement of ‘Mrs. R’, mother of the victim, wherein she alleged that some unknown person had kidnapped her daughter namely ‘N’, aged about 15 years. The victim was reportedly missing since 09/07/2019.

3. A Habeas Corpus application was further filed vide Writ Petition No. 3453/2019 on behalf of the complainant after the registration of aforesaid FIR No. 226/2019, under Sections 363/366/376 I.P.C. and Sections 4/6 of POCSO Act registered at Police Station : Mayur Vihar, Delhi.

4. The investigation was transferred to AHTU/Crime Branch. The petitioner/accused during course of investigation misled the investigating agency by suppressing the whereabouts of the victim. Even the polygraph test of all the 07 suspects was got conducted in view of orders of the Hon'ble High Court of Delhi in Writ Petition No. 3453/2019.

5. Finally, on the basis of mobile technical surveillance and CDR location, victim was eventually recovered on 05.10.2021 along with her 8 month old female child from the house of petitioner/accused. The

UPT of the victim is also stated to have been found positive and she was about 1½ months pregnant.

6. It is further the case of prosecution that victim was persuaded and kidnapped by petitioner/accused Jagbir, aged about 27 years, when victim was waiting for her boyfriend Shahid @ Rahul at Chilla Village, Mayur Vihar, Delhi. The said Shahid @ Rahul used to reside on rent in a house at Chilla Village, where Jagbir worked as its caretaker. Petitioner further lured the victim and allegedly married her in a temple at Delhi.”

11. Thus, the facts of that case are totally different from present case.

12. Accordingly, the case is made out for grant of Anticipatory Bail. In view thereof, the following order is passed:

ORDER

- (a) In the event of arrest of the Applicant No.1-Balu Baburao More and the Applicant No.2-Sushila Babu More in connection with C.R. No.286 of 2025 registered with the Paud Police Station, Pune Rural, Pune, the Applicants are directed to be released on bail on their furnishing P.R. Bond in the sum of Rs.1,000/- each with one or two sureties each in the like amount.
- (b) The Applicants shall attend the Paud Police Station, Pune Rural, Pune, as and when called by the

Investigating Officer and shall cooperate with the investigation.

- (c) The Applicants shall furnish their cell phone number and residential address to the Investigating Officer and shall keep the same updated, in case of any change thereto.
- (d) The Applicants shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of the case so as to dissuade such a person from disclosing the facts to the Court or to any Police personnel.
- (e) The Applicants shall not tamper with the prosecution evidence and shall not contact or influence the Complainant or any witness in any manner.

13. The Anticipatory Bail Application is disposed of accordingly.

14. This Court places on record its appreciation for the assistance rendered by Mr. Saeed Shaikh, learned Counsel appointed to represent the interest of the Respondent No.2.

[MADHAV J. JAMDAR, J.]