

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

**INTERIM APPLICATION NO.1588 OF 2025
IN
CRIMINAL APPEAL NO.433 OF 2025**

Jasaram Bhiyaram SutarApplicant
Versus
The State of Maharashtra
and another Respondents

Mr. Rajesh More, Advocate for the Applicant.
Mr. Pankaj P. Devkar, APP for the Respondent No.1-State.
Mr. Ganesh Shelar, Advocate for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 07th AUGUST, 2025

P.C. :

1. This is an Application for bail pending the Applicant's Appeal. The Applicant was the original accused No.8 in Special Child Protection Case No.466/2021 before the Special Judge (under POCSO Act) & Additional Sessions Judge, Pune. There were in all ten accused. Some of the accused were absconding and one accused had passed away. The learned Judge, at the conclusion of the trial, convicted the accused Nos.1, 2, 8 and 10. As far as the Applicant is

concerned, as mentioned earlier, he was accused No.8. He was convicted for commission of the offences punishable under Section 370-A(1), 376(n)(j) read with Section 34 of IPC and under Section 5(1) read with 6 of Protection of Children From Sexual Offences Act, 2012. The major sentence imposed on him was RI for ten years besides imposition of fine.

2. Heard Mr. Rajesh More, learned counsel for the Applicant, Mr. Pankaj Devkar, learned APP for the Respondent No.1-State and Mr. Ganesh Shelar, learned counsel for the Respondent No.2.

3. Learned counsel for the Applicant submitted that he was on bail during trial. After he was convicted on 27.2.2025, he was taken in custody and since then he is in custody.

4. The prosecution case is that the victim, in this case, was below eighteen years of age during the period of the offence. She lodged her report on 9.4.2021 at Mahad

police station. It was registered vide C.R. No.74/2021 and it was sent to Bhore police station and then it was registered vide C.R. No.72/2021. The date of birth of the victim was 19.9.2004 and at the time of series of incidents her age was sixteen years and six months. The prosecution case, as per the evidence of the victim, is that she was not happy with her family. The accused No.1 and the accused No.10 were residing on the first floor of that house. Accused No.1 wanted to shift to Pune. It is the case of the prosecution that the accused No.1 induced the victim to accompany her to Pune. Thereafter the accused No.1 and accused No.2 forced her into prostitution. Her evidence mentions various instances when she was subjected to forcible physical relations. For that the accused No.2 used to take money from those persons to establish physical relations with the victim.

5. As far as the Applicant is concerned according to the prosecution case, he was mentioned as *Shetji* and said *Shetji* had established physical relations with the victim on seven to eight occasions. On each of these occasions, he

used to pay money to the accused No.1. This went on for about two years; then the victim rescued herself and lodged her FIR.

6. The allegations undoubtedly are serious. However, the learned counsel for the Applicant invited my attention to the cross-examination of the victim. He submitted that the cross-examination completely destroys the prosecution case against the Applicant. The Applicant is clearly falsely implicated at the instance of the police and, therefore, he deserves to be released on bail. He was on bail during the trial and he has not misused that liberty.

7. Learned APP as well as learned counsel for the Respondent No.2 submitted that the offence is serious and the Applicant was described as *Shetji*. The Applicant was identified at the time of examination-in-chief of the victim as is mentioned in Paragraph-13 of her evidence. They, therefore, submitted that the prosecution has proved its case.

8. I have perused the evidence of PW-1 the victim. She has identified the Applicant as *Shetji* in her examination-in-chief. However, her cross-examination is very important. In Paragraph-34 of her cross-examination conducted on behalf of the Applicant she has stated that she did not know said *Shetji* prior to the said incident. Between 2018 and 2020 she was taken to many persons. She admitted that since the incident had taken place six years ago, she was not remembering the faces of the accused. She further admitted that she did not remember the face of said *Shetji*. She admitted that she was never called for the test identification parade. Importantly she further admitted that she could not tell whether the person who was present in the Court and who according to the prosecution case was *Shetji*, had established physical relations with her. She further admitted that she identified the Applicant as *Shetji* in the court on the instructions of the police. These admissions clearly destroy the prosecution case against the Applicant.

9. All these aspects will have to be seriously considered at the stage of final hearing. However, based on this cross-examination, the Applicant has made out a case for grant of bail during pendency of the Appeal. The Applicant was on bail during the trial and he has not misused that liberty.

10. Hence the following order :

:: O R D E R ::

- i. During pendency and final disposal of the Applicant's Criminal Appeal No.433/2025, the Applicant is directed to be released on bail on his executing a PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- i. Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)