IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

947 BAIL APPLICATION NO. 1599 OF 2026

Santosh Vinayak Pawara
VERSUS
The State Of Maharashtra And Another
...
Mr. Savale Amit S, Advocate for Applicant
Mr. S. A. Gaikwad, APP for the Respondent-State
Mr. Pranav V. Dhakne, Advocate for Respondent No.2

CORAM : HITEN S. VENEGAVKAR, J.
Dated : 28th October, 2026

PER COURT :-

1. Heard the learned Advocate for the Applicant, the learned APP for the State and the learned Advocate appearing for the informant.

2. The applicant is seeking his release on regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 168 of 2026 registered with Dhadgaon Police Station, District Nandurbar, for the offences punishable under Sections 64(2)(m), 351(3), 332(c) of he Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6 of the Protection of Child from Sexual Offences Act. The applicant came to be arrested on on 08.05.2026 and since then, he is in custody.

3. It is the case of the prosecution that the prosecutrix, who is a minor victim, lodged complaint with Dhadgaon Police Station on 08.05.2026 stating therein that since last 10 years, she is residing with her parental aunt. The applicant is known to her as he used to regularly

visit her house to meet her parental aunt. Since last four years, the applicant has been expressing his desire to marry the prosecutrix. It is alleged that the applicant gave threats to the victim that if she refuse to marry him, then he will kill her parental aunt and uncle. It is further alleged that in the month of October, 2025, during Diwali festival, when the informant victim was alone in the field, at that time, the applicant came to her and under the pretext of having a talk, took her with him. When she refused to accompany, the applicant gave threats to kill her. Due to the threat, the informant accompanied the applicant at the bank of the river, where the applicant forcibly had sexual intercourse with the victim. The applicant threatened to kill the victim as well as her family members, if the said incident is disclosed to anybody. Again on 16.03.2026, in the night, at about 10.30 p.m. the applicant entered the house of the informant victim when she was alone in the house and once again committed forcible intercourse with the victim. The informant further alleges that the applicant started repeatedly demanding sexual relations with her and for that purpose, he used to threaten the informant to defame her in the society. The informant, therefore, had no option but to approach the police and register the complaint against him.

4. The learned Advocate for the applicant submits that the applicant and the informant had love affair and they wanted to get married, however, due to some misunderstanding, the present offence has been registered. He submits that the family members of the

applicant as well as the victim have now sat together and have decided to permit the marriage of the present applicant and the victim immediately after the victim turns 18 years of age. He submits that the investigation is complete and charge-sheet is filed and therefore, there is no purpose for keeping the present applicant in jail. He further submits that at the time of incident, the victim was 16 years and 9 months of age while, the applicant was 19 years of age. Taking into consideration the tender age of the applicant and the fact that the parents of both the sides have agreed to get them married, the application be considered.

5. The learned APP however, objected for granting bail. He submits that there cannot be consent in cases where the offence is under POCSO Act. The victim is minor and not in a position to commit or file affidavit in this Court. He submits that there is material on record in the nature of victim's statement herself as to how the offence has been committed forcibly. He prays for rejection of the application.

6. I have also heard the learned Advocate appearing for the original informant. Initially, he submitted that the victim has no objection, if the present application is allowed and the applicant is released on bail. On perusal of the record, it was found that the victim, as on date, is 17 years of age and therefore, her consent cannot be recorded. The Advocate for the informant then has produced affidavit of the informant executed before a notary on 22.10.2026. The affidavit specifically states that both the family members have sat together and

have decided to get the informant and the present applicant married to each other immediately after the victim turns major. He, thus, submits that the application can be allowed and the applicant can be released on bail.

7. I have perused the charge sheet and also heard the respective Advocates for the parties. The fact that there is consent between the parties itself cannot be a ground for granting bail in cases where the assault is on the minor and the offence is registered under the POCSO Act. The entire object of the POCSO Act is to protect sexual assault and sexual harassment caused to the minor. If routinely such applications are allowed on the ground of settlement, then the entire object of the Act will be frustrated. Keeping this principle in mind, the present case is of a victim, who, at the time of incident, was 16 and half years of age, the record indicates that there is slight truth in the contention of the applicant that there was a standing love affairs between the applicant and the victim. The affidavit of the informant and affidavit of father of the applicant stating that the applicant's family has agreed to get the applicant and victim married is one of the prime consideration. The performance of marriage of the victim with the present applicant can help the victim to come out of the mental trauma that has been caused to her due to the alleged offence. The fact, therefore, can be taken into consideration. The other factors that sways in favour of the applicant is the age of the present applicant. At the age of 19 years, the love affair between 19 years old boy and 16 years and

9 months years old girl is not very unusual. At this tender age, the applicant was not expected to know about the intricacies of love. However, it cannot be said that the present applicant has not committed the offence at this stage. That is for the trial court to decide at an appropriate stage if the matter proceeds to trial. However, the period of custody undergone by the applicant and the fact that the families of the applicant and the victim have agreed to get the victim and the informant married to each other after the victim attains 18 years of age are the prime considerations. In the light of above, I am inclined to allow the application. Hence, the following order:

O R D E R

(i) Bail Application No.1599 of 2026 is allowed.

(ii) Applicant shall be released on bail in connection with Crime No. 168 of 2026 registered with Dhadgaon Police Station, District Nandurbar, for the offences punishable under Sections 64(2) (m), 351(3), 332(c) of he Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6 of the Protection of Child from Sexual Offences Act on executing P.R. Bond of Rs.10,000/- with one or two solvent sureties in the like amount.

(iii) The Applicant shall attend the concerned police station as and when required.

(HITEN S. VENEGAVKAR, J.)

JPChavan