IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2110 OF 2026

GOVIND SUBHASH JOGDAND
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Mr. Sudarshan J. Salunke, Advocate for Applicant
Mr. D. J. Patil, APP for Respondent - State
Mr. Ajinkya Reddy, Advocate for Respondent No.2 (Appointed Through Legal Aid),

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CORAM : HITEN S. VENEGAVKAR, J.

DATED : 3rd NOVEMBER, 2026

ORDER :

1. The applicant seeks regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, in Crime No.289 of 2026 registered with Sonpeth Police Station, District Parbhani, for the offences punishable under Sections 137(2) and 64(1) of the Bharatiya Nyaya Sanhita, 2023, and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. He was arrested on 19th July, 2026. Investigation is complete and the charge-sheet has been filed. The prosecution is pending as Special POCSO Case No.44 of 2026 before the Special Court at Gangakhed. His application for bail after filing of the charge-sheet was rejected on 28th September, 2026 by Sessions Court.

2. The prosecution states that, on 12th July, 2026, the informant's daughter remained at home as she was unwell. The informant had gone to Gangakhed, while his wife and son had gone to their agricultural field. On returning at about 3.00 p.m., the informant found the house locked. He obtained the key from its usual place and opened the house, but his daughter was not there. Despite inquiries with neighbours and relatives, she could not be traced. He therefore lodged the report against an unknown person alleging that his minor daughter had been enticed away. During investigation, suspicion arose against the applicant, who belongs to the same village and was acquainted with her.

3. The prosecution further states that the applicant used to meet the child, give her gifts and speak of marriage. He had also provided her with a mobile telephone. According to her police statement, when the applicant asked her to leave with him on 12th July, 2026 and she declined, he threatened to harm himself. She states that she became frightened and accompanied him on his motorcycle to Parbhani. After leaving the motorcycle near the railway station, they travelled to Basar, where they stayed in a lodge. She alleged that the applicant had sexual intercourse with her despite her expressing unwillingness to have such relations before marriage. They thereafter travelled to Tirupati and

Secunderabad, where a further act of sexual intercourse is alleged. The police traced their movements through mobile telephone information, including the use of another SIM in the applicant's handset, and found them together at Nanded. The offences concerning sexual assault were thereafter added. The charge-sheet includes the child's statements, statements of her relatives and lodge managers, medical papers, seizure and spot panchanamas, and telephone records.

4. Learned Advocate for the applicant submits that the applicant and the child were acquainted and had developed a relationship. He relies particularly on her statement under Section 183 of the BNSS, in which she stated that they had decided to leave together and marry, and that the applicant had not compelled her either to leave or to have physical relations. He submits that the history given by her to the examining doctor also refers to their relationship. According to him, the allegations of force in the police statement do not accord with these statements. He submits that the applicant is a young college student without criminal antecedents, that the investigation and recoveries are complete, and that further custody would interrupt his education without serving any investigative purpose. He offers to abide by conditions protecting the child and securing his attendance. The application

also refers to ***Vijayalakshmi v. State*** in support of its submission concerning relationships between young persons.

5. Learned APP opposes the application and submits that the child was below eighteen years and that her purported consent cannot make the alleged sexual acts lawful. He relies on her police statement and the material corroborating the applicant's association and travel with her. He submits that the seriousness of the offences, the earlier rejection of bail and the possibility of interference with witnesses must receive due weight. The prosecution reply also raises the possibility of disputes and disturbance of law and order since both families belong to the same village. The informant's opposition, recorded in the impugned order, is that the applicant has caused harassment, that pressure is being exerted to settle the matter, and that release may expose his daughter and family to further harassment or physical harm. The child supported that objection before the Special Court.

6. The prosecution material cannot be treated as disclosing no case against the applicant. The child's police statement contains specific allegations. The medical history records sexual intercourse, and the lodge and telephone material supports the prosecution concerning their association and

movements. Equally, the applicant's submission that a relationship takes the matter outside the POCSO Act cannot be accepted. On the prosecution's stated date of birth, namely 31st August, 2009, the child was about sixteen years and ten months old when she left home. This application is considered on that footing. There is no occasion to decide the unsupported assertion in the earlier bail application that she had already attained majority.

7. *In Re: Right to Privacy of Adolescents, 2024 INSC 614*, the Supreme Court made it clear that a child's willingness to maintain a relationship does not remove the statutory prohibition against sexual intercourse with a person below eighteen years. The reliance on observations concerning adolescent relationships cannot therefore support a finding that the alleged acts are lawful. The statutory presumptions under Sections 29 and 30 of the POCSO Act must also be borne in mind. They do not, however, dispense with an examination of the material for deciding bail or make detention until conclusion of trial inevitable. The present question is whether, upon considering the accusation and the circumstances together, the applicant's continued custody is necessary and whether the risks attending release can be addressed by effective conditions.

8. The child's statement recorded by the Magistrate on 22nd July, 2026 is part of the investigation papers themselves. She stated that she had known the applicant through Instagram for about a year, that they regularly spoke on the telephone, and that they decided to leave together and marry. She described their journey and stays and expressly stated that the applicant had not used compulsion either for leaving home or for physical relations. The Magistrate recorded satisfaction that she was making the statement voluntarily. This is relevant material for considering the circumstances in which the alleged offences occurred. It cannot be excluded merely because the police statement contains a different version. At the same time, neither statement can be declared true or false in these proceedings. In ***State of Uttar Pradesh v. Anurudh, 2026 INSC 47 : MANU/SC/0045/2026***, the Supreme Court reiterated the limits of bail jurisdiction and the prohibition against conducting a mini-trial. The differences between the statements will have to be examined when evidence is recorded.

9. The medical history recorded on 19th July, 2026 also refers to a prior relationship and to the child accompanying the applicant. The report records sexual intercourse and does not furnish a basis for rejecting the prosecution concerning sexual acts. The absence of recorded injuries cannot establish consent or

disprove sexual assault. What is relevant here is that the history given to the doctor, read with the Magistrate's statement, provides material concerning the circumstances of their association independently of the applicant's assertion. The child's subsequent opposition to bail does not erase that material. Nor does her earlier statement permit an inference that she now supports the applicant's release.

10. The applicant's college certificate dated 30th September, 2026 records his date of birth as 5th October, 2007 and that he was studying in the first year of the B.A. course during 2025-2026. He was thus about eighteen years and nine months old at the time of the incident. No criminal antecedents are shown in the papers. In ***Deshraj alias Musa v. State of Rajasthan***, ***2024 SCC OnLine SC 2709***, decided on 4th October, 2024, the Supreme Court granted bail in a POCSO prosecution involving a young accused and a minor, after considering the circumstances, and expressly prohibited renewed association with the child. That order does not create an exception to the age prescribed by the statute. It illustrates that release can be considered on the particular facts while protecting the child against further contact.

11. The investigation has secured the relevant statements,

medical samples, clothes, mobile telephones and motorcycle, and has collected the lodge and telephone material. Further custodial interrogation is not shown to be required. The alleged use of another SIM and the movements across different places require consideration when assessing the risk of the applicant evading proceedings. Those circumstances are not ignored. However, his local residence, student status and absence of recorded antecedents, coupled with disclosure of his proposed residence and regular reporting, provide a sufficient basis to secure his attendance. The period already spent in custody is not treated as prolonged incarceration or as an independent ground for release.

12. The informant's apprehension requires particular attention. His statement before the Magistrate also seeks protection from future trouble, and the Special Court has recorded the child's support for his objection. It would therefore be inappropriate to release the applicant with only a general direction not to tamper with evidence. Both families reside in the same village. Physical separation, a prohibition on every form of contact and a prohibition on attempts to obtain a settlement are necessary. The applicant will be required to reside outside that village, disclose that address before release and report to the police station having jurisdiction over that residence. Any breach or attempt to

influence the child or her family will furnish a ground for seeking cancellation of bail. On the material presently available, these restrictions can adequately address the apprehensions while permitting the prosecution to proceed.

13. The Special Court correctly recognised the child's minority and the seriousness of the accusations. Those considerations continue to weigh against the applicant. Upon considering them together with the child's Magistrate statement and medical history, the applicant's age and educational record, absence of recorded antecedents, completion of investigation and the protective restrictions now imposed, I am satisfied that further detention pending trial is not necessary. This conclusion does not rest on treating a minor's consent as legally valid, accepting a settlement, or holding that the prosecution is false. The application deserves to be allowed on conditions.

ORDER

a) The Bail Application is allowed.

b) The applicant, Govind Subhash Jogdand, shall be released on bail in Crime No.289 of 2026 registered with Sonpeth Police Station, District Parbhani, on furnishing a personal bond of Rs.25,000/- with one or two sureties in the like amount to the satisfaction of the Special Court, Gangakhed.

c) The applicant shall furnish to the Investigating Officer his proposed residential address outside village Narwadi and his working mobile number. He shall reside at that address and shall not enter village Narwadi until the evidence of the child and her parents is recorded, except with prior permission of the Special Court for a specified purpose. He shall intimate any change of address or mobile number in advance to the Investigating Officer.

d) The applicant shall not approach, follow or contact the child or her family, directly or through any other person, telephone, messaging application or social media. He shall not visit her residence or educational institution, seek to renew their association, or solicit a compromise, withdrawal or alteration of any statement.

e) He shall not threaten, induce or influence any prosecution witness or tamper with evidence.

f) He shall attend the trial regularly unless exempted and shall not leave India without prior permission of the Special Court.

g) He shall not disclose or publish any material revealing the child's identity. The Investigating Officer shall communicate these protective conditions to the child and her guardian, along with contact particulars for reporting any breach.

h) The prosecution or the child, through her guardian or counsel, may apply for cancellation of bail in the event of breach or interference with the proceedings.

i) The observations made above are confined to the decision on bail. The Special Court shall decide the case independently on the evidence, without being influenced by these observations.

j) The application stands disposed of.

(HITEN S. VENEGAVKAR)
JUDGE

Tandale