



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

BAIL APPLICATION NO. 1403 OF 2025

ANTON SHYAMSUNDAR GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Pralhad C. Bhagure
APP for Respondent No.1 : Mr. C. V. Badhane
Advocate for Respondent No.2 : Mr. Arjun R. Lukhe (Appointed)

...
CORAM : SACHIN S. DESHMUKH, J.

DATE : 02-02-2026

PER COURT:-

1. The applicant seeks regular bail in connection with Crime No.51 of 2025 dated 22.02.2025 registered with Paithan Police Station, District Aurangabad (Rural), for the offences punishable under Sections 351(3), 75, 65(1), 64(2)(m), 64(1) of the *Bharatiya Nyaya Sanhita, 2023* and Sections 4, 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012. In the said crime, the applicant is arrested on 02.05.2025.

2. The prosecution case is that the applicant and the informant are neighbours and were in a consensual love relationship. In the year 2023, the applicant was externed from Ahilyanagar, therefore, shifted to Paithan. He intermittently used to call informant at Paithan. In the year 2024, informant alongwith her daughters started residing with the applicant at Paithan. It is alleged that the applicant was maintaining an indecent and improper gaze towards the victim.

3. In the month of August 2024, when the informant visited Paithan to meet daughters, victim started crying and informed that the applicant used to sexually assault her under threats. Upon questioning, the applicant also threatened the informant.

4. Subsequently, on 21.02.2025 when the informant told the applicant about her plan to shift victim in the Hostel at Ahilyanagar, the applicant got annoyed and beaten her with threat to kill. He also sexually assaulted the victim by giving threats. Hence, the report lodged.

5. The learned counsel for the applicant submits that the applicant is falsely implicated in the offence. The victim is legally wedded wife of the applicant. The complainant has falsely implicated the applicant to harass and get the land transferred in her name. The complainant and the applicant were in relationship for years. The witnesses given hearsay statements. There is no eyewitness to the alleged incident. There is serious doubt on the prosecution version and it creates a significant dent in the credibility of the allegations. All the accusations are baseless and are just an attempt to defame the applicant. There is no incriminating evidence against the applicant. The applicant was arrested on 02.05.2025. The investigation is complete. The chargesheet is filed. As such, further incarceration of the applicant is unwarranted. Hence, prayed to allow the application.

6. Per contra, learned APP and the learned counsel for the informant vehemently opposed the application and submitting that the offence is serious in nature. The applicant has subjected the minor victim to forcible sexual assault. The statement of victim corroborates the first information report. The medical history narrated by the victim also corroborates the allegations levelled against the applicant. Further, there are criminal antecedents against the applicant. An apprehension is also expressed that if the applicant is enlarged on bail, there is every possibility of tampering with the prosecution evidence. Hence, prayed to reject the application.

7. Upon considering the submissions of both the sides and perusing the material on record, including chargesheet, it is evident that the victim is 14 years 4 months old at the time of alleged incident. The allegation against the present Applicant is about committing forcible sexual assault on a minor girl.

8. Perusal of the record indicates that the victim is minor and was not of consenting age for sexual relationship. On the other hand, the applicant is of a considerable age i.e. 45 years. The applicant committed sexual assault by extending threats to the victim.

9. The statements of the victim *prima facie* corroborates the allegations levelled in the FIR. The medical history narrated by the

victim also corroborates the allegations levelled in the FIR to the extent of sexual intercourse by the applicant with the victim on multiple occasions in absence of the informant. The school certificate indicating the date of birth of the victim as "03.10.2010" and appears to be child within the meaning of POCSO Act. There is, *prima facie*, sufficient material to indicate the commission of the offences alleged against the applicant. There are criminal antecedents of the applicant.

10. Perusal of record further indicates that the medico-legal examination report, *prima facie*, supports the case of prosecution. Therefore, it could be *prima facie* said that there is sufficient evidence to indicate complicity of the Applicant in the offence.

11. The Honourable Apex Court, in the case of ***Mahipal Vs. Rajesh Kumar and Ors. (AIR 2020 SC 670)***, has laid down the principle that bail can be refused when the material produced by prosecution establishes a clear *prima facie* case. The Court should not conduct a mini-trial; it should only examine whether the available evidence links the accused to the alleged offence.

12. Equally, the Honourable Apex Court, in the case of ***State of UP through CBI vs. Amaramani Tripathi [(2005)8 SCC 21]***, has held that the Court must evaluate the *prima facie* evidence showing the applicant's involvement. If such evidence is credible and supports the accusations, bail may be refused. As stated

earlier, the prosecution has collected overwhelming evidence against the present applicant.

13. Similarly, the Honourable Apex Court, in the case of ***Pralhad Singh Bhati Vs. NCT, Delhi, [(2001) 4 SCC 280]***, held that on satisfaction of prima facie evidence establishing the guilt of the accused, the bail can be denied.

14. In view of the aforesaid observations and having regard to the gravity of the offence, the Applicant is not entitled for release on bail, as such, this is not a fit case to exercise discretion in favour of the Applicant. Resultantly, I do not find merit in the present application and, accordingly, the same deserves to be rejected.

15. Hence, the bail application is rejected.

16. The Secretary, High Court Legal Services Sub-Committee, Aurangabad, to pay fees of learned counsel appointed for respondent No.2 as per rules.

17. Needless to state that the observations rendered herein are to the extent of this application and the trial Court shall not be influenced by the same.

[SACHIN S. DESHMUKH]
JUDGE