



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1739 OF 2025

Bablu Alias Krushna Bhumanna MorawarApplicant

VERSUS

The State of Maharashtra & anotherRespondents

Mr. I. D. Maniyar, Advocate for Applicant.

Mrs. P. V. Diggikar, APP for the State.

Ms. Deepali Patil, Advocate (appointed) for Respondent No. 2.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 7th JANUARY, 2026.

PER COURT :

1. The Applicant seeks regular bail in connection with Crime No. 346/2024 registered with Kinwat Police Station, Dist. Nanded, for the offences punishable under Sections 137(2), 64(2)(i), 69, 87 of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4 and 6 of Protection of Children from Sexual Offences Act.

2. In short, the case of the prosecution is that on 30.11.2024 in the morning at 10.00 am, daughter of the informant namely Pornima, left home for school by auto rickshaw owned by the Applicant. Since said Pornima did not return home till 4.00 pm on the said day, informant lodged complaint with the Police Station alleging kidnap of his daughter by unknown person.

3. Learned Counsel for the Applicant submits that investigation in the crime is complete and charge-sheet is already filed. Statements of the witnesses are silent about the alleged act by the Applicant. Thus, it is his submission that the prosecution could not establish involvement of the Applicant in the alleged offence.

4. Learned APP and learned Counsel for the Informant vehemently opposed the Application. It is submitted that looking to the age of the victim, who is a minor, the offence is serious in nature.

5. Having heard the respective Counsel for both the sides and upon perusal of record including charge-sheet, it appears that the victim on her own accord had accompanied the Applicant. The statement of the victim dated 24.03.2025 recorded under Section 183 of the BNSS shows that the victim admits having married with the Applicant and being in love relationship with him. The victim further states that she on her own volition resided with the Applicant as husband-wife.

6. At this juncture, it would be appropriate to refer the decision of the Hon'ble Apex Court in case of **S. Varadarajan v. State of Madras reported in AIR 1965 SC 942**, wherein the Hon'ble Apex Court has held as under :

“2. Where a minor girl alleged to be taken away by the accused person, had left her father’s protection knowing and having capacity to know the full import of what she was doing and voluntarily joined the accused, it could not be said that the accused had taken her away from the keeping of her lawful guarding within the meaning of Section 361 of the Penal Code, 1860 (“IPC” for short). Something more had to be done in a case of that kind, such as an inducement held out by the accused person or an active participation by him in the formation of the intention immediately prior to the minor leaving her father protection or at some earlier stage.”

7. Insofar as the rigours of Sections 4 and 6 of the POCSO Act are concerned, it can be conveniently said that, provisions of law are, though, stringent in nature, would not deter the Court to grant or refuse bail in order to secure the ends of justice. The conduct of the victim in the present case sufficiently indicates the fact that the victim has left her home at her own volition without informing the parents and joined the company of the applicant. No doubt the victim is minor as contemplated under the provisions of the POCSO Act. However, the facts of the present case unequivocally indicate that she has sufficient knowledge and capacity to know the consequences of her action and thereafter stayed with the applicant almost for five months.

8. The case in hand indicates that the victim has left the parent's house without informing the parents and joined the company of the applicant and has further travelled with him from 30.11.2024 till 21.03.2025 and had a consensual encounter.

9. The decisions of the Hon'ble Apex Court and this Court have favoured the release of an offender on bail pending trial was that it would avoid the impact of jail environment of the accused person keeping in mind the principle in the aforesaid eventualities.

10. It is settled law that a Court, while deciding a Bail Application, has to keep in mind the principal rule of bail which is to ascertain whether the Accused is likely to appear before the Court for trial. There are other broad parameters also, such as the gravity of the offence, the likelihood of the Accused repeating the offence while on bail, and whether he would influence the witnesses and tamper with the evidence. In such cases, his antecedents are also required to be considered.

11. In the present case before me, it is crucial to consider whether the act between the parties is violent or otherwise and in the present case it is not. Another mitigating factor is whether there are

any criminal antecedents of the Applicant, which in the present case are none.

12. Nevertheless, the investigation is complete for all intent and purposes. Having regard to the number of witnesses which the prosecution proposes to examine, it is unlikely that the trial can be commenced and concluded within a reasonable period. As such, further detention of Applicant as an under-trial prisoner in the circumstances of the case does not seem to be either warranted or justifiable. I am, therefore, persuaded to exercise the discretion in favour of the Applicant.

10. Hence, the following order :-

ORDER

- (i) Application is allowed.
- (ii) Applicant Bablu @ Krushna Bhumanna Morawar, be released on bail, on furnishing P.R. bond in the sum of Rs. 50,000/- (Rs. Fifty Thousand) with one or two local solvent sureties, in the like amount, in connection with Crime No. 346/2024 registered with Kinwat Police Station, Dist. Nanded, for the offences punishable under Sections 137(2), 64(2)(i), 69, 87 of the Bharatiya Nyaya Sanhita, 2023 and

under Sections 4 and 6 of Protection of Children from Sexual Offences Act, on the following conditions :-

- (a) The Applicant shall not pressurize the prosecution witnesses and tamper with the prosecution evidence, in any manner.
 - (b) The Applicant shall attend the trial on each and every date unless exempted by the Trial Court and shall not leave the area of jurisdiction of the concerned Police Station till conclusion of the trial.
 - (c) The Applicant shall submit Aadhar and Pan Cards to the Investigating Officer and detailed address and phone numbers of the Applicant and two of the near relatives.
 - (d) In case of breach of any of the conditions by the Applicant, it is open for the prosecution to move this Court seeking cancellation of bail.
- (iii) 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.

11. The High Court Legal Services Sub-Committee, Aurangabad, to pay fees of learned Counsel appointed for Respondent No. 2 as per rules.

(SACHIN S. DESHMUKH, J.)