



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 1848 OF 2025

Akash Santu Kasar

....Applicant

VERSUS

The State of Maharashtra & another

.....Respondents

Mr. K. N. Shermale, Advocate for Applicant.

Mr. C. V. Bhadane, APP for the State.

Ms. S. H. Desarda, Advocate (appointed) for Respondent No. 2.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 9th JANUARY, 2026.

PER COURT :

1. Applicant has filed this Application seeking regular bail in connection with Crime No. 59/2025 registered with Akole Police Station, Dist. Ahilyanagar for the offences punishable under Sections 64, 65(2) of Bharatiya Nyaya Sanhita, 2023, Sections 4, 8, 12, 9(m) of Protection of Children from Sexual Offences Act and Sections 3(2), 3(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act.

2. The case of prosecution revolves around the incident dated 16.02.2025. Applicant is the neighbour of the victim, aged 5 years. It is alleged that on 16.02.2025, the informant left home for doing agricultural work. On the request of one Asha, the informant left for

home. When she returned home, she saw her daughters were crying. Upon enquiry, they did not tell her anything. However, her younger daughter i.e. victim informed that the Applicant took the victim to his home on motorcycle and committed sexual assault on her and thereafter he dropped the victim back to her house. Accordingly, the First Information Report came to be lodged.

3. Learned Counsel for the Applicant submits that this is a case of over implication. The First Information Report is the outcome of a civil litigation pending between the two families. It is further submitted that the grounds of arrest are not informed to the Applicant at the time of his arrest as contemplated under Section 47 of the BNSS. Investigation in the crime is complete, charge-sheet is also filed. Hence prays for release of the Applicant on bail.

4. Per contra, learned APP and learned Counsel for Respondent No. 2 vehemently opposed the Application citing heinous nature of the offence. It is further submitted that the statement of mother of the Applicant establishes complicity of the Applicant in the crime. An apprehension is also expressed that on release of the Applicant, he may tamper with the prosecution evidence.

5. Heard learned counsel for both the sides. Perusal of the record including the charge-sheet indicates that the victim is a minor

girl aged 5 years. On the other hand, the applicant is of a considerable age of 28 years. Moreover, statement of the mother of Applicant indicates that the victim was found accompanied with the Applicant at his house and at the relevant time the doors of the house were closed, which sufficiently establishes the complicity of the Applicant in the alleged offence.

6. So far as contention in respect of non-compliance of provisions of Section 47 of BNSS is concerned, on perusal of police papers, more particularly, communication dated 16.02.2025, it is evident that the Applicant is duly informed the grounds of his arrest.

7. The Hon'ble Apex Court in 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 accusation, the bail may be refused. Furthermore, the Hon'ble Apex Court in case of Ram Govind Upadhyay vs. Sudarshan Singh, **(2002) 3 SCC 598**, has held that a judicial discretion in granting bail must not be exercised whimsically, especially in heinous crimes.

8. To secure bail, the Applicant must establish that the evidence collected and intended to be presented by the prosecution fails to establish a prima facie case of the Applicant's involvement in

or commission of the alleged offence. Since this necessary aspect has not been satisfied by the Applicant, the Applicant is disentitled to claim the relief.

9. In view of the aforesaid observations and having regard to the gravity of offence, the Applicant is not entitled for release on bail, as this is not a fit case to exercise discretion to grant bail. As such, I am not inclined to enlarge the Applicant on bail. Accordingly, the Application stands rejected.

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

(SACHIN S. DESHMUKH, J.)

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