



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

BAIL APPLICATION NO.1862 OF 2025

Babu @ Bapurao Ashok Ingole ... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENTS**

.....
Mr. Y.R. Shinde, Advocate for applicant
Ms R.R. Tandale, A.P.P. for respondent – State
.....

CORAM : SACHIN S. DESHMUKH, J.

DATE : 7th JANUARY, 2026

PER COURT :

1. By this application, the applicant seeks his release on regular bail in connection with Crime no.120/2025, registered with Neknur Police Station, District Beed for the offences punishable under Sections 137(2), 74, 64(2)(m), 65(1), 96 of the Bhartiya Nyaya Sanhita, 2023 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act ("POCSO Act" for short).

2. The informant initially lodged report under Section 137(2) of the Bhartiya Nyaya Sanhita, 2023 with an assertion that

on 23/5/2025 at about 7.30 p.m., when all the family members were watching Television, the victim, informing that she will go to answer the nature's call, resultantly left the house. After long lapse of time, since the victim did not return to the house, and upon her search in the field and the village, neighbours and relatives, she was not traced. As such, the complaint came to be lodged with an assertion that she is abducted by an unidentified person.

3. During the course of investigation, the statement of the victim is recorded, wherein it is stated that, the present applicant offered her to accompany and was taken in his Four-wheeler, which was driven by the cousin of the victim, who is accused No.2, proceeded towards Manjarsomba and eventually reached to Kolhapur at about 5.00 a.m. There the present applicant called one of his friend for ensuring their accommodation and immediately a room was made available. Accordingly, the victim, accompanied with the present applicant, started residing in the said room where allegedly sexual assault was committed on her which continued up to 29/5/2025. When the mobile phone belonging to the accused was put to charging, using the same, the victim contacted her father, informing her place. Accordingly, the father reached there on 30/5/2025, confirming the place again by calling on the mobile of

the accused and accordingly the father approached the applicant and upon enquiry, it was informed that the applicant has proceeded to work on the tanker in M.I.D.C. After proceeding towards the native place, reached to Neknoor and the complaint is lodged for the offences punishable under Sections 137(2), 74, 64(2)(m), 65(1), 96 of the Bhartiya Nyaya Sanhita, 2023 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

4. Learned counsel for the applicant submits that, the applicant and the victim were in relationship and accordingly the victim has accompanied the accused and reached to Kolhapur accompanied with her cousin, who is enlarged on bail by the learned Court of Sessions. The victim has accompanied the applicant conscious of the consequences. It is further submitted that, the investigation is complete and the charge sheet is filed. As such, further incarceration of the applicant would be unjustified.

5. Per contra, the learned A.P.P. has vehemently opposed the application, submitting that the applicant has indulged in serious offence by abducting the victim who is minor and thereafter has also indulged in sexual assault. As such, the same disentitles the applicant to claim the bail.

6. Upon hearing the respective counsel and perusal of the record and the charge sheet, the applicant and the victim were in relationship. The victim accompanied the applicant conscious of the consequences. Nevertheless, the investigation is complete for all intents and purposes.

7. 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.”

8. Insofar as the rigours of Sections 4, 6 and 8 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 in the evening without informing the parents and joined the company of the applicant almost for a week. 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 joined and stayed with the applicant almost for seven days.

9. 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 23/5/2025 till 30/5/2025 and had a consensual encounter.

10. It is settled law that, Court, while dealing with bail application, has to keep in mind the principle of rule of bail which is to ascertain about the likelihood of the accused to appear before the Court for trial. There are other parameters like gravity of offence, likelihood of accused repeating the offence while on bail and influencing the witnesses and tampering of the prosecution evidence.

11. 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.

12. It is pertinent to consider the act between the parties is violent or otherwise. In the present case, same unequivocally can be regarded as not violent. The another mitigating factor is the antecedents against the present applicant. There are no antecedents as against the present applicant.

13. Nevertheless, the Chargesheet is also filed. Considering the number of witnesses which the prosecution is likely to examine during the course of trial, the trial is unlikely to conclude within a reasonable period. Therefore, in my considered opinion, indefinite incarceration of the applicant is unjustified. Thus, the application warrants consideration, and accordingly, the discretion deserves to be exercised in favour of the applicant.

14. Hence the order :

ORDER

- (i) Bail Application is allowed.
- (ii) The applicant Babu @ Bapurao Ashok Ingole be released

on bail on furnishing P.B. and S.B. of Rs.50,000/- (Rupees Fifty Thousand) with one solvent surety of the like amount in the above crime, on the conditions that :

- (a) The applicant shall not tamper with the prosecution witnesses.
- (b) The applicant shall remain present on each date, unless exempted by the trial Court.
- (iii) Needless to state that, the observations rendered herein are confined to the present application, and the trial Court shall not be influenced by the same.

(SACHIN S. DESHMUKH, J.)

fmp/-