



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD
BAIL APPLICATION NO. 2346 OF 2025

Vinod Rajaram DamaleApplicant

VERSUS

The State of Maharashtra & anotherRespondents

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

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

Ms. S. R. Khan, Advocate (appointed) for Respondent No. 2.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 13th JANUARY, 2026.

PER COURT :

1. Applicant seeks regular bail in connection with Crime No. 348/2025 registered with Rajur Police Station, Dist. Ahilyanagar, for the offences punishable under Sections 64(2)(m), 65(1), 142, 115(2), 351(3), 3(5) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4, 6, 8 of Protection of Children From Sexual Offences Act.

2. In short, the case of the prosecution is that on 04.09.2025 at 9.00 am the informant had been at Mutkhel and his wife had been to the agricultural field. Victim, i.e. his daughter aged 12 years, was alone in the house. When he returned home, his wife informed him that when he returned home from work, the victim was not present in the home. Accordingly, searched the victim but could not trace

her. Thereafter, on 05.09.2025 at 3.00 am, they found the victim in the house of one Vitthal Ide and they took her to the home. On 08.09.2025 the victim told the informant and his wife that on 04.09.2025 at about 4.30 pm, the Applicant and one Vitthal Ide, came to her and asked her to accompany them. She refused to join them and tried to escape from there. At that time, the Applicant caught hold her left hand. When the victim tried to shout, the co-accused threatened her to kill. Thereafter they took her to the house of co-accused and confined her there and at about 10.00 pm, co-accused Vitthal came to the house and told the victim that he wanted to marry her and committed forcible sexual assault on her. Again at 12.00 midnight, he committed forcible sexual assault on her and threatened her not to disclose the incident to anybody. Thereafter he left the house. Accordingly, First Information Report came to be registered.

3. Learned Counsel for the Applicant submits that there is delay of three days in lodging First Information Report. The Applicant only accompanied the co-accused. No specific role is attributed against him. Further, there is variance in the statement of the victim about the alleged incident. It is further submitted that the Applicant is an

innocent person and has no nexus with the alleged incident except accompanying the co-accused. The investigation in the crime is completed and the charge-sheet is also filed. As such, further incarceration of the Applicant is not warranted. Hence, prayed to allow the Application.

4. Per contra, learned APP for the State and learned Counsel for Respondent No. 2 vehemently opposed the Application submitting that the offence is serious in nature. There is substantial evidence on record indicating complicity of the present Applicant in the offence. An apprehension is expressed that if the Applicant is enlarged on bail, there is every possibility of tampering the prosecution evidence. As such, prayed to reject the Application.

5. Upon considering the submissions of both sides and on perusal of the material on record, including charge-sheet, it is evident that the alleged incident is reported on 08.09.2025. Perusal of the record indicates that the victim is minor barely of age of 12 years and was not of consenting age for sexual relation. Nevertheless, the applicant's active participation in the offence is prima facie evident from the statement of victim. The record indicates a specific role wherein the

applicant physically lifted the victim, thereby facilitating the other accused in committing the sexual assault.

6. 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. In such evidence is credible and supports the accusation, bail may be refused. Similarly, 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 offences.

7. The Hon'ble Apex Court in case of **Kalyan Chandra Sarkar and Ors. Vs. Rajesh Ranjan and Ors. [(2004)7 SCC 528]**, while laying down the guidelines for grant or refusal of bail in serious offences, has observed as under :

"11. The law in regard to grant or refusal of bail is very well settled. The court granting bail should exercise its discretion in a judicious manner and not as a matter of course. Though at the stage of granting bail a detailed examination of evidence and elaborate documentation of the merit of the case need not be undertaken, there is a need to indicate in such orders reasons for prima facie concluding why bail was being granted particularly where

the accused is charged of having committed a serious offence. Any order devoid of such reasons would suffer from non-application of mind. It is also necessary for the court granting bail to consider among other circumstances, the following factors also before granting bail; they are:

(a) The nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence.

(b) Reasonable apprehension of tampering with the witness or apprehension of threat to the complainant.

(c) Prima facie satisfaction of the court in support of the charge. (See Ram Govind Upadhyay v. Sudarshan Singh and Puran v. Rambilas.)

8. The Hon'ble 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.

9. Equally, 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

accusations, bail may be refused. As stated earlier, the prosecution has collected overwhelming evidence against the present applicant.

10. Similarly, the Hon'ble Apex Court in 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.

11. Similarly, 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 offences.

12. The Hon'ble Apex Court in case of **Prasanta Kumar Sarkar Vs. Ashis Chatterjee [(2010)14 SCC 496]**, has held that the mechanical grant of bail reflects non-application of mind, and outlined eight crucial factors to be considered, including reasonable ground for belief in guilt, nature of evidence and possibility of justice being thwarted.

13. In the present case, the prosecution's case is primarily based upon the testimony of a child victim. The learned counsel for the applicant submits that, in light of the affidavit presented by the victim's father, the applicant's request for bail warrants consideration. However, it is well-settled law that evaluating the credibility and reliability of a witness falls within the exclusive domain of the Trial Court. The mere filing of an affidavit does not, ipso facto, entitle the applicant to claim bail as a matter of right. The premature evaluation of such material would result in conducting a mini-trial, which is impermissible at the stage of bail.

14. In the case of **Neeru Yadav Vs. State of U.P. [(2016)15 SCC 422]**, the Hon'ble Apex Court observed that while considering a bail application, the heinous nature of the crime warrants greater caution. Furthermore, the Courts are not expected to determine whether the evidence as a whole establishes the guilt of the accused beyond a reasonable doubt; rather, the Court must only reach a prima facie satisfaction in support of the charges at this stage.

15. The testimony of the victim, which remained consistent in the statement recorded under Section 181 of the BNSS

(corresponding Section 161 of the CrPC), is in itself sufficient to constitute a prima facie case against the applicant. In the case of **State of Maharashtra Vs. Chandraprakash [(1990) 1 SCC 550]**, the Hon'ble Apex Court observed that a victim of sexual assault is not an accomplice to the crime but is a victim whose testimony does not require corroboration.

16. In the present case, the victim's statement is prima facie relevant and consistent regarding the role of the applicant. The evidence indicates that the applicant accompanied and facilitated the other co-accused in the commission of heinous offence. As such, the consistent testimony is prima facie sufficient to establish the applicant's involvement. Consequently, the request of the applicant for bail does not warrant consideration.

17. The gravity of the alleged offence is exceptionally severe, as the charges carry stringent penalties, including life imprisonment for the remainder of the convict's natural life or the death penalty. In the present case, the victim is a 13-year-old child, whereas the applicant is 25 years old. This significant age disparity underscores

the severity of the alleged act and raises serious concerns regarding the exploitation and abuse of a minor.

18. The comparative ages of the victim and the accused are relevant considerations when assessing the gravity of an offence and deciding a bail application. A greater age gap between the victim and the accused indicates a more heinous nature of the crime, necessitating a more stringent approach by the Court at the stage of determining bail.

19. The gravity of the offence alleged is rather severe and the applicant is charged carries stringent punishment including remained of the life of the convict natural life or the death penalty. The victim in this case is child of 13 years whereas the applicant is a man with age of 25 years. This wide disparity in age further indicates the severity of the alleged act and eventual and rather serious concern regarding the exploitation and abuse of child victim. Comparative age of the victim and the accused is relevant consideration while assessing the gravity of the offence and deciding the bail application. The greater the gap between the victim and the

accused, more serious and heinous nature of the offence entailing most stringent approach of the Court at the stage of decision of bail.

20. To secure bail, the applicant must establish 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 presently disentitled to claim the bail.

21. In view of the peculiar facts and circumstances, I am of the considered opinion that no case is made out for the grant of bail to the applicant at this stage. The allegations against the applicant are grave and serious in nature. Furthermore, the victim has consistently maintained her version regarding the specific role of the applicant, thereby supporting the prosecution's case. Accordingly, the application stands **rejected**.

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

23. It is clarified that the observations rendered hereinabove are confined only to the determination of the present bail application. The Trial Court shall proceed with the matter independently, uninfluenced by any observations made herein.

(SACHIN S. DESHMUKH, J.)

Omkar Joshi/-