



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2397 OF 2025

ABUJAR SANDU KHA PATHAN AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Advocate for Applicants : Mr. Nilesh S. Ghanekar
APP for Respondents-State : Ms. P. V. Diggikar
Advocate for Respondent No. 2 : Mr. P. M. Salunke

CORAM : SACHIN S. DESHMUKH, J.

Date : 20th January, 2026

ORDER :-

1. The applicants have approached this Court seeking regular bail in connection with FIR dated 08.09.2025 bearing Crime No. 207 of 2025 registered with Hasnabad Police Station, Dist. Jalna for the offences punishable under Sections 64(2)(h), 70(1) of the Bharatiya Nyaya Sanhita, 2023 and Sections 5(g)(q) and 6 of the Protection of Children from Sexual Offences Act, 2012.

2. According to the prosecution, the incident occurred on 05.09.2025 at approximately 02:00 hours. The victim was proceeding alone toward her matrimonial home, upon reaching the flag area of the Zilla Parishad School, victim was intercepted by the accused persons. Accused No. 2 allegedly lifted the victim on his

shoulders, while Accused No. 1 forcibly covered her mouth to prevent from raising an alarm. Accused No. 3 followed closely behind as they moved toward a nearby corn-field. The accused persons allegedly subjected the victim to non-consensual physical relations in succession. During the assault, accused No. 2 reportedly pinned the victim's hands while accused No. 1 engaged in the act. Following the incident, the accused fled the scene. The victim subsequently sought refuge at her parental home rather than returning to husband. A complaint was lodged thereafter and the crime was registered accordingly.

3. The learned counsel for the applicant submits that the applicants are falsely implicated in the crime. It is further contended that perusal of the record indicates that the victim, after the alleged incident, chose to proceed to her parental home rather than reporting the incident to Police. The conduct of the victim is unnatural and indicates that the present FIR is an afterthought. The investigation is complete, the charge-sheet has been filed, and nothing further is to be recovered from the applicants. As such, prayed that application may be allowed.

4. The learned APP vehemently opposed the application, submitting that the accused persons sexually exploited the victim.

Committed the serious nature of the offence, it is contended that the applicants' release on bail would create a significant risk of tampering with evidence. Consequently, the APP prays for the application to be rejected.

5. Considering the submissions from both sides and perusing the record, including the charge-sheet, prima facie, the medical examination report of the victim reveals an absence of struggle marks, external injuries or signs of forcible restraint that would typically correspond with the specific allegations of a physical struggle involving three persons. Prima facie, there is a discrepancy between the ocular testimony (the victim's statement) and the medical evidence. Even, there is unexplained delay in lodging the report in relation to alleged incident.

6. Prima facie, the prosecution's version that the victim was transported on the shoulders of an accused person from a location near the Zilla Parishad School without any alarm being raised or noticed, appears to require deeper corroboration.

7. Nevertheless, the investigation is complete for all intent and purposes. Resultantly, the charge-sheet is filed. Having regard to the number of the accused and the witnesses which the prosecution proposes to examine, it is very unlikely that the trial

can be commenced and concluded within a reasonable period.

8. As such, further detention of the 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 favor of the applicant. The learned APP's apprehension about tampering with the prosecution evidence can be adequately taken care of by imposing stringent conditions.

9. Resultantly, following order is passed :-

ORDER

- (I) Application is **allowed**.
- (II) Applicants – **Abujar Sandu Kha Pathan, Sahil Ismail Kha Pathan** and **Sahil Amjat Kha Pathan** be released on regular bail on furnishing P.R. bond of Rs. 50,000/- (Fifty Thousand Only) **each** with one or two local solvent sureties in the like amount, in connection with Crime No. 207 of 2025 registered with Hasnabad Police Station, Dist. Jalna for the offences punishable under Sections 64(2)(h), 70(1) of the Bharatiya Nyaya Sanhita, 2023 and Sections 5(g) (q) and 6 of the Protection of Children from Sexual Offences Act, 2012, on the following conditions :-
 - (a) The applicants shall attend each and every date of the Trial Court, unless exempted by the Trial Court.

- (b) The applicants shall attend concerned Police Station on every Sunday from 11.00 am to 2.00 pm till the end of May 2026.
 - (b) The applicants shall not pressurize the prosecution witnesses and shall not tamper with the prosecution evidence, in any manner.
 - (c) The applicants shall submit their Aadhar and Pan Card to the Investigation Officer and detailed addresses and phone numbers of applicants 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 states 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, J.)

Omkar Joshi