



IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 2501 OF 2025

Prakash Alias Paka Saudagar KhuleApplicant

VERSUS

The State of Maharashtra & anotherRespondents

Mr. A. D. Sonkawade, Advocate for Applicant.

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

Ms. A. P. Pansare, Advocate (appointed) for Respondent No. 2.

CORAM : SACHIN S. DESHMUKH, J.

DATE : 13th JANUARY, 2026.

PER COURT :

1. By preferring this Application, Applicant seeking regular bail in connection with Crime No. 223/2025 registered with Bhoom Police Station, Dist. Dharashiv, for the offences punishable under Sections 64, 65(2) of Bharatiya Nyaya Sanhita, 2023 and Sections 4, 6, 8, 12 of Protection of Children From Sexual Offences Act.

2. Case of the prosecution is that on 24.09.2025 at 7.30 am, the victim, who is a minor girl aged about 7 years, was proceeding alone towards agricultural field of her grandmfather. At about 10.00 am she returned home and stated the informant that on the previous day at about 11.00 am, while she was playing infront of

their house the Applicant took her behind the house and committed sexual assault on her. It is further alleged that the victim told the informant that on 24.09.2025 while she was going to the field, the Applicant came near her and asked her to accompany. The Applicant then took the victim with him and against committed sexual assault on her. On the basis of these allegations, the First Information Report came to be registered.

3. Learned Counsel for the Applicant submits that the Applicant is falsely implicated in the alleged offence. There is no prima facie case against the Applicant. Injury certificate on record does not rule out the possibility of sexual assault. The investigation of the crime is complete and charge-sheet is also filed. As such, further incarceration of the Applicant is not warranted. Hence, prayed to allow the Application.

4. Learned APP and learned Counsel for Respondent No. 2/complainant vehemently opposed the Application submitting that the Applicant is indulged in heinous offence. The Applicant had subjected the victim, who is minor, to the forcible sexual assault. There is substantial evidence on record indicating complicity of the

Applicant in the offence. If Applicant is enlarged on bail, there is every possibility of tampering the prosecution evidence.

5. Learned Counsel for Respondent No. 2 has relied on judgment in case of **Ramanand Sahni vs. State Govt. of NCT of Delhi, 2025 SCC onLine Del 5650** wherein it held that Children may not resist sexual assault with the same degree of force as adults, and the nature of assault may not always result in visible or lasting injuries. The Supreme Court in State of **H.P. vs. Gnan Chand, AIR 2001 Supreme Court 2075**, held that non-rupture of hymen and absence of injuries do not necessarily disprove the commission of rape, especially when the victim is a child and the testimony is otherwise credible.

6. Upon considering the submissions of both sides and on perusing the material on record including charge-sheet, it is evident that the Applicant aged 59 years has indulged into the act of committing sexual assault on the minor victim aged about 7 years. The medical examination of the victim unequivocally prima facie establishes the allegations in the First Information Report. The

statement of victim, prima facie, is rather consistent in relation to the occurrence of the alleged incident

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. 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.

8. 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.)

9. 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.

10. 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.

11. 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.

12. 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.

13. 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.

14. 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 7-year-old child, whereas the applicant is 59 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.

15. 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.

16. 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 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.

17. 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.

18. 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.

19. Considering the aforesaid aspects, the application does not warrant any consideration. Accordingly, the application stands **rejected**.

20. Fees of the appointed Counsel is quantified at Rs. 7,500/- to be paid by the High Court Legal Services Sub-Committee, Aurangabad.

21. 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/-