



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 1467 OF 2025

Aditya Gautam Dhobale

....Applicant

VERSUS

The State Of Maharashtra And Others

.....Respondent

.....

Advocate for Applicant : Mr. Suryawanshi Govind G., Paikrao Jaydip
Bhiwaji

APP for Respondents: Mrs. P.J. Bharad.

CORAM : MEHROZ K. PATHAN, J.

DATE : 13th JANUARY, 2026.

P.C. :-

1. The applicant has approached this Court seeking anticipatory bail in connection with Crime No. 369 of 2025 registered with MIDC Latur Police Station, Dist. Latur for the offence punishable under Section 137-2 of the Bhartiya Nyaya Sanhita and under Sections 4,8 and 12 of the POCSO Act.

2. The learned counsel for the applicant submits that the applicant is aged 24 years and the victim is aged about 17 years. The victim has herself admitted to have called upon the present applicant so as to escape from the forcible marriage being carried out by her parents. The learned counsel further submits that the said act on the part of the victim of herself calling upon the applicant to run away from the house, itself shows that the victim who was of vulnerable age had herself made a choice to escape from her forcible marriage which was being performed by her parents. After returning back, the statement of the victim was

recorded on 8.5.2025, wherein, she has narrated that she went away from home on her own volition and that she was not enticed by any one. That she has not complained about enticing minor girl from the guardianship of her parents. The victim did not raise any allegation of forcible sexual intercourse or consensual intercourse by applicant in her statement recorded on 8.5.2025 recorded by the police authorities. It is further submitted that it is only the subsequent statement recorded by the Police under Section 183 of the BNSS before the Magistrate that the victim had, for the first time, stated about the forcible sexual intercourse committed by the applicant when he had taken her to Pune. The said statement of forcible sexual intercourse, therefore, is at variance with her earlier statement recorded on 8.5.2025.

3. The learned counsel for applicant, therefore, submits that the judgment of this Court in the matter of ***Sunil Mahadeo Patil vs. State of Maharashtra. 2015 SCC Online Bombay 6204.*** squarely covers the case of the present applicant and the applicant and victim being of tender age, were in consensual love relationship and as such, the applicant may be released on anticipatory bail. The applicant is not having any criminal antecedents and he is ready to abide by any condition that may be imposed by this Court.

4. As against this, the learned APP and the learned appointed counsel assisting the prosecution vehemently oppose the application on the ground that the applicant is alleged with serious offence of enticing a minor girl away from the guardianship of her parents. The applicant is alleged to have committed forcible sexual intercourse against the wish of the victim girl and, therefore, this is not a fit case to grant anticipatory bail to the applicant as offence under the stringent provisions of the POCSO Act is involved in this case.

5. I have gone through the investigation papers made available by the learned APP. Perusal of the investigation papers would show that the statement of the victim was recorded on 8.5.2025 by the police authorities wherein, she has narrated that she had left the house on her own volition as the parents were forcibly performing her marriage against her wish. The victim further narrated that she does not blame any person for leaving the parental house. The statement dated 8.5.2025 also does not show allegations of any forcible sexual intercourse while the victim was being taken away by the applicant to Pune. The statement dated 8.5.2025 also shows that the victim had called upon the applicant to take her away as the parents are performing her marriage forcibly.

6. The statement of the victim under Section 183 of BNSS dated 18.5.2025 is at variance with statement dated 8.5.2025. Likewise, the statement recorded by the investigation office on 16.5.2025 is also at variance with her earlier statement dated 8.5.2025. The medical examination papers show that the hymen of the victim was intact, even though the allegations of forcible sexual intercourse are subsequently made against the present applicant, the said allegation does not corroborate with the medical evidence. Be that as it may, the observations made herein are only for the purpose of deciding the present application.

7. The Division Bench of this court in the case of ***Sunil Mahadeo Patil vs. State of Maharashtra***, reported in ***2015 SCC Online Bombay 6204*** has observed thus :-

“7. In the case of S. Varadarajan (supra) though the age of consent though as per law was 18 years, when the girl eloped with the accused, she was approximately 17 years and 9 months old. The Hon’ble Supreme Court in the case of S. Varadarajan has distinguished Section 361 on the point of taking from the guardian or enticing the girl and the girl

herself leaving the house of the parents of her own and accused allowing her to be in his company and has held that it not a case of rape. In the case of S. Varadarajan, the matter was finally heard and the accused was convicted. In appeal, the decision of the Hon'ble Supreme Court can be culled out that if a girl takes initiative or she is active in taking decision of going away with the boy and she understands the meaning of man-woman relationship and of marriage, then the rigor of offence is reduced.

8. It is to be noted that the case of S. Varadarajan was decided in the year 1967 when the women were not enjoying the freedom which today the women have. Albeit the Hon'ble Supreme Court then has taken a pragmatic view and has acquitted Varadarajan. Now we come across such cases everyday. If a girl is a minor between the age group of 15 to 18 years and if it can be safely inferred that her consent was obvious, then it is a mitigating circumstance. Some trial Courts dealing with such Bail Applications, especially after Nirbhaya case, started taking a strict approach and the accused are denied the bail only on the ground that the prosecutrix being minor below 18 years, her consent is immaterial, therefore, in the case of rape on such minor, no bail can be granted. This is a matter of concern.”

8. Thus, taking into consideration the vulnerable age of the present applicant who is 24 years of age and the victim, who is 17 years of age, and her initial statement dated 8.5.2025, which is corroborated by the medical examination papers of the victim, I am inclined to protect the applicant. The apprehension of the learned APP and appointed counsel assisting prosecution, can be taken care of by imposing stringent conditions. Hence, the following order :-

ORDER

[I] In the event of arrest of the applicant, in connection with Crime No.369 of 2025 registered with MIDC Latur

Police Station, Dist. Latur for the offence punishable under Section 137-2 of the Bhartiya Nyaya Sanhita and under Sections 4,8 and 12 of the POCSO Act, the applicant Aditya Gautam Dhoble be released on bail on furnishing PR Bond in the sum of Rs. 50,000/-, with one or more sureties in the like amount, on the following conditions :-

[i] The applicant shall attend the concerned police station and report to the Investigating Officer on 17th, 18th 19th, 23rd, 24th and 25th January, 2026 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called by the Investigating Officer till filing of charge sheet.

[ii] The applicant shall not enter the MIDC area, Latur till the framing of charge and recording of evidence of the victim, except for attending the dates as aforesaid.

[iii] The applicant shall not tamper with the prosecution evidence.

[iv] The applicant shall submit his Aadhar and Pan card to the Investigating Officer alongwith mobile numbers and addresses of two of his near relatives and his new address.

[iv] The application stands disposed of.

[v] The fees of the counsel appointed shall be paid as per the schedule of fees maintained by the Maharashtra Legal Services Authority, Sub-committee Aurangabad, expeditiously.

[vii] The application for permission to assist the prosecution is also disposed of accordingly.

[MEHROZ K. PATHAN]
JUDGE.