



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

BAIL APPLICATION NO. 416 OF 2026

Dattatraya S/o Digambarrao Chimanshette,
Age : 53 years, Occu : Agril.,
R/o Ujed, Tq. Shirur – Anantpal,
Dist. Latur

... Applicant

VERSUS

The State of Maharashtra,
Through Police Station,
Shirur – Anantpal,
Tq. Shirur – Anantpal, Dist. Latur

... Respondent

**AND
CRIMINAL APPLICATION NO. 1272 OF 2026 IN BA/416/2025
(X.Y.Z. V. The State of Maharashtra and another)**

...
Advocate for Applicant : Mr. V.D. Gunale (416/2026)
A.P.P. for Respondent/State : Mrs. P.V. Diggikar
None present for applicant in 1272/2026

CORAM : SHAILESH P. BRAHME, J.

DATE : 30.04.2026

PER COURT :

Heard both sides.

2. The applicant is seeking enlargement on bail in connection with Crime No.240 of 2025, registered with Shiruranantpal Police Station, Dist. Latur for the offences punishable under Section 64(1), 64(2)(i) of Bharatiya Nyaya Sanhita, 2023, under section 4, 6 of POCSO Act.

3. It is reported to the Police by mother of the victim that victim was 9 years girl. She related an incident which occurred on 02.11.2025 at about 01.30 to 02.30 pm in the room located above the medical shop run by the applicant. The informant had sent the victim for bringing the tablets from the medical shop on the relevant date and after returning from the shop, informant found excess amount

with the daughter. On further enquiry, she learnt that the victim was taken to the upper storied room and penetrative assault was committed by the applicant over the victim. The victim felt pain but she was given Rs.15/- for not disclosing the incident to anybody. The informant checked the private part of the victim. Thereafter, the law was set into motion.

4. In pursuance of the complaint, applicant was arrested on 06.11.2025. The charge-sheet is filed on 16.12.2025. Application was filed before the Special Court post chargesheet which was rejected. Hence, the applicant is before this Court, seeking regular bail.

5. Learned counsel for the applicant submits that the applicant is falsely implicated in the offence. The informant had tendency to blackmail the respectable persons of the society from the vicinity. To extract money, the false allegations are made against the applicant. The scene of the crime does not reveal any objectionable thing to indicate commission of any offence. The medico-legal certificate of the victim does not support the prosecution case. No injuries were found on the person of the victim. It is vehemently contended that applicant is suffering from many ailments and he was unable to perform any sexual act. He is under constant medication at the relevant time and the documents were produced to indicate his physical condition. My attention is adverted to the representation made by people from the vicinity against the informant.

6. Learned APP submits that there is cogent incriminating material available against the applicant. The medico-legal certificate, in unequivocal terms, would suggest penetrative sexual assault. The statement of the informant and the victim recorded under section 183 are consistent. Admittedly, the age of the victim at the relevant time was of 9 years. Hence, applicant has committed offence under section 4(2) of POCSO Act, inviting major punishment. The representation which is sought to be relief upon, is afterthought and would not bely the prosecution theory.

7. The victim was knowing the applicant who is being referred as 'Datta Mama'. It reveals from the papers of investigation that the informant and the

victim were resident of adjoining premises where the medical shop is being run by the applicant. At the relevant time, the age of the victim was 9 years, which is not disputed by the applicant. The incident occurred on 02.11.2025 between 01.30 to 02.10pm. The *bona fides* of the informant is castigated showing the representation dated 19.01.2026. The representation is after occurrence of the incident and lodging of FIR. Hence, it is inconsequential. There is no material on record to show that informant was in habit of filing false cases or her endeavour was to blackmail and extort money from any of the members of the society.

8. I have gone through the scene of offence. The room where the incident took place, was in possession of the applicant. The scene of the offence is not useful to decide the involvement of the applicant. Obviously, no incriminating material or objectionable situation is noticed against the applicant. The applicant was also medically examined and it is reported by the Medical Officer that applicant cannot be said to be disabled one to perform sexual intercourse. The age of the applicant is reported to be 53 years at the relevant time. The hypertension and ailment pertaining to liver are cited to disclose that the applicant was unable to perform any sexual act. The submission of learned counsel Mr. Gunale that his client was unable to perform any sexual act due to physical disability, cannot be countenanced.

9. I have carefully gone through the medico-legal certificate of the victim. In column no. 15, the history narrated by the informant, is consistent with the prosecution theory. In column no. 15, the pain in abdomen is recorded. Column no. 15(f) shows a penetrative sexual intercourse. Hymen perineum is found to be torn at 2 'O' clock position. No external injuries were found on the body. The provisional opinion records that sexual intercourse cannot be ruled out. The radiological examination records the age suggestive of 8 years and 12 months and radiological age on dental examination records probable age of 8 years and 10 months. The medical examination of the victim, in no uncertain word, indicates the occurrence of penetrative sexual assault.

10. My attention is adverted to the statement of the informant and the victim recorded under section 183. Both the statements are consistent with the earlier statements and would disclose the penetrative sexual assault as well as the

sufferance of the pain by the victim. I have no hesitation to record that there is strong *prima facie* case made out from the papers of investigation that applicant is involved in a serious offence under section 64(1), 64(2) of BNS and section 4 and 6 of the POCSO Act. Considering the age of the victim, the maximum punishment would be life imprisonment.

11. It cannot be countenanced that informant would falsely implicate the applicant at the cost of her daughter's reputation, dignity and career. There is no reason for the minor victim to implicate applicant identifying him as 'Datta Mama'. No case is made out for enlarging the applicant on bail. Application is rejected.

12. Criminal Application No. 1272 of 2026, seeking to assist the APP, is disposed of.

(SHAILESH P. BRAHME, J.)

arp/-