



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 420 OF 2026

Appasaheb @ Balu s/o Bhaurao Wagh,
Age 37 years, Occ. Labour,
R/o. Javkheda Thombre, Tq. Bhokardan,
District Jalna

... Applicant

VERSUS

1) The State of Maharashtra,
Through Superintendent of Police
Jalna.

2) The Bhokardan Police Station,
Bhokardan, Tq. Bhokardan, Dist.
Nanded.

3) XYZ

... Respondent.

...
Advocate for Applicant : Mr. Patil Ujwal Subhash
A.P.P. for Respondent/State : Mr. N. R. Dayma

CORAM : SHAILESH P. BRAHME, J.

DATE : 22.04.2026

PER COURT :

Heard both sides.

2. The applicant is seeking regular bail in connection with Crime No. 109/2025, registered with Bhokardan Police Station, District Jalna, for the offences punishable under Sections 64(2)(i), 64(2)(k), 351(2), 351(3), 3(5) of Bharatiya Nyaya Sanhita, 2023.

3. The applicant is arrested on 03.03.2025. The charge-sheet is filed on 02.05.2025.

4. It is reported that informant's daughter was married but staying with her. She is stated to have suffered some illness, which affected her mental health. The incident in question took place on 26.02.2025 at 10 p.m. when the applicant is alleged to have lured the victim by offering ice-cream and taken her to the field of one Santosh Thombre. On being informed by Virag, informant and other persons rushed to the field and caught the applicant raid handed in a compromising position.

5. Learned counsel for the applicant submits that there is no material on record to show that victim was of unsound mind. The medical certificate does not show any use of force. The victim on her own volition accompanied the applicant. She was not forcefully taken to any remote place. There is no incriminating material to show the overt act.

6. Per contra, learned A.P.P. submits that the applicant and the victim were caught red handed and there were witnesses present along with the informant. The statements of Virag, Sadashiv, Santosh, Sominath and Parmeshwar, corroborate the prosecution story. It has also been sufficiently revealed during the course of investigation that the victim was of unsound mind. My attention is adverted to the findings recorded by the medical officer. It would state that the victim was mentally challenged. In such a situation, her consent is inconsequential.

7. I have gone through the F.I.R., as well as statements of the witnesses, who accompanied informant and who are alleged to have seen the couple in a compromising position. It is not the case of the prosecution that the applicant is seen committing sexual intercourse with the victim. Considering the material on record, at the most offence under Section 63B can be said to be made out, subject to scrutiny, during the trial.

8. The victim was major, married and was staying with informant. During the medical examination, the clinical findings were recorded about her behavioural pattern. The possibility that the victim might be mentally

challenged person cannot be ruled out. But I find that the investigation in that regard is scanty. It would be matter of trial as to whether the victim was in a proper state of mind to understand the consequences and to give consent. The medical report does not show use of any force on the victim.

9. The applicant is behind bars since 03.03.2025. He is entitled to be released on bail.

10. The Bail Application is allowed.

11. The applicant **Appasaheb @ Balu s/o Bhaurao Wagh** shall be released on bail in connection with Crime No. 109/2025, registered with Bhokardan Police Station, District Jalna, for the offences punishable under Sections 64(2)(i), 64(2)(k), 351(2), 351(3), 3(5) of Bharatiya Nyaya Sanhita, 2023. on following conditions:

(a) The applicant shall furnish P.R. bond of Rs. 50,000/- (Rs. Fifty Thousand only) with one solvent surety of like amount.

(b) The applicant, his relatives or any body on his behalf shall not contact with the prosecution witnesses and tamper the witnesses.

(c) The applicant shall furnish his mobile/cell number and address to the investigating officer.

(d) The applicant shall not enter village Javkheda Thombre Tq. Bhokardan Dist. Jalna, till conclusion of the trial.

(e) The applicant, shall surrender his Aadhar Card and PAN card to the investigating officer.

(f) The applicant shall cooperate for expeditious disposal of the trial.

12. Bail application is disposed of.

(**SHAILESH P. BRAHME, J.**)

mkd/-