



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

BAIL APPLICATION NO. 543 OF 2026

**EKNATH ALIAS BABURAV KACHARU DHUTRAJ
VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Rahul Pandhari Cheble.

APP for Respondent/s-State : Ms. P. V. Diggikar.

Advocate for Respondent No.2 : Mr. U. D. Kamble – Absent.

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CORAM : SHAILESH P. BRAHME, J.

DATE : 30.04.2026

PER COURT :-

1. Heard both sides.
2. The applicant is seeking enlargement on bail in respect of offence bearing Crime No.618 of 2025, registered with Chakur Police Station, District Latur, for the offences punishable under Sections 64(2), 64(2)(i), 64(2)(k) of Bharatiya Nyaya Sanhita.
3. Applicant is arrested on 24.11.2025. Charge-sheet is filed on 03.01.2026. In this backdrop, the application falls for the consideration before this Court.
4. It is reported by mother of the victim that on 19.11.2025 she noticed that her daughter/victim was being impregnated.

On further inquiry and taking her into confidence it transpired that she was being ravished by the applicant. The applicant happened to be the tenant of the adjoining agricultural land. When the parents of the victim were away for the work before three months he is alleged to have committed rape. It is reported that the victim is 32 years old and mentally challenged unmarried girl.

5. Learned counsel for the applicant submits that the victim was 32 years old and a normal person. It was a single episode and consensual one. There is nothing on record to show that she was unable to give consent. The medical certificate does not show any injury or force. The report of the psychiatric also does not disclose any mental abnormality. No antecedents are reported against the applicant.

6. Per contra, learned APP repels the submission on the ground that the victim was mentally challenged. There was no consent and the case is squarely covered by Section 64(2)(i)(k) of Bharatiya Nyaya Sanhita. A medical report is pressed into service to indicate the disability of the victim. The statement of the victim would indicate that she was being ravished by the applicant. My attention is also adverted to DNA report which is conclusive proof of the overt act of the applicant.

7. The victim is unmarried 32 years person who is stated to have been raped before three months preceding 19.11.2025 when she is found to be impregnated. The First Information Report does not spell out exact mental or psychological condition of the victim. Same is the position with the statements of father, sister and sister-in-law of the victim. No material is collected by the Investigating Officer to indicate that the victim was ever been treated for any psychological disorder previously. The relatives of the victim also do not disclose any disorder or the treatment thereof except describing her as a naive.

8. The victim was being referred to the psychiatric for the evaluation. She is found to be suffering from “Intellectual Disability – Borderline Intellectual Functioning. The mental and psychological condition of the victim can be gone into during the course of trial. At this juncture, it cannot be inferred that victim was unable to form opinion or unable to understand the things. In such a situation, whether she was in a position to give consent can be examined after objective scrutiny of the material on record during the course of trial.

9. The victim is of 32 years old and subjected to sexual intercourse only once as per the prosecution case. No injuries

are found on her body during the medical examination. The possibility of consensual act cannot be ruled out. The reliance is placed on the report of DNA which concludes as “bone of B/O belongs to biological offspring of XYZ and Eknath Kacharu Dhutraj”. It shows that applicant is the person who impregnated the victim. The culpability of the applicant can be dealt with on the basis of report and the medical papers during the course of trial.

10. No antecedents are reported against him. He is inside jail for sufficient period. He is entitled to be released on bail by imposing certain conditions. I, therefore, pass following order :

ORDER

- (i) Bail Application is allowed.
- (ii) Applicant **EKNATH ALIAS BABURAV KACHARU DHUTRAJ** shall be released on bail in Crime No.618 of 2025, registered with Chakur Police Station, District Latur, for the offences punishable under Sections 64(2), 64(2)(i), 64(2)(k) of Bharatiya Nyaya Sanhita on furnishing P. R. bond of Rs.50,000/- (Rupees fifty thousands only) with

one solvent surety of like amount on the following conditions :

- (a) The applicant shall not tamper with prosecution evidence or contact with the prosecution witnesses.
 - (b) The applicant shall furnish his mobile/cell number and address to the Investigating Officer.
 - (c) The applicant shall not enter Rohina, Taluka Chakur as well as Chakur Taluka, District Latur till conclusion of the trial.
 - (d) The applicant shall surrender his Aadhar Card and PAN Card to the Investigating Officer, if any.
 - (e) The applicant shall co-operate for expeditious disposal of the trial and attend the dates punctually.
- (iii) Bail application is disposed of accordingly.

(SHAILESH P. BRAHME, J.)

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vmk/-