



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO. 547 OF 2026

Maroti S/o Shankar @ Jahangir Pawar

.. Applicant

Versus

The State of Maharashtra
Through Police Station, Gangakhed,
Tq. Gangakhed, Dist. Parbhani and another

.. Respondents

...
Advocate for applicant : Mr. Upendra B. Bilolikar
APP for the respondent – State : Mrs. P.V. Diggikar
Advocate for respondent no. 2 : Mr. V.P. Bakal (appointed)
...

CORAM : SHAILESH P. BRAHME, J.

DATE : 27 APRIL 2026

PER COURT :

Heard both sides.

2. Applicant is seeking enlargement on bail in CR No. 783 of 2025 registered at Gangakhed Police Station, Dist. Parbhani for the offences punishable under section 137(2), 87, 64(2)(i), 65(1), 96 of the Bharatiya Nyaya Sanhita, 2023, under section 4, 8, 12 of POCSO Act.

3. He was arrested on 09.12.2025. Chargesheet is filed on 20.01.2026.

4. Informant mother of the victim approached the Police Station by filing missing report of the daughter. Her daughter had gone

missing on 18.11.2025 after 2.45 pm. from Gangakhed, District – Parbhani. While returning from school, she disappeared. Thereafter, she was found on 07.12.2025 along with the applicant. Initially, it was stated that there was no sexual contact between victim and the applicant. Later-on, it was revealed that there was one such episode between them. The victim was subjected to medical examination. It was reported that the possibility of sexual intercourse cannot be ruled out.

5. Learned counsel Mr. Bilolikar appearing for the applicant submits that the victim herself left the house being enraged against her mother and was in company of the applicant. The conduct of the applicant is a mitigating factor. She was neither enticed nor lured with any false promises by the applicant. The statement of the victim under section 181 and 183 are inconsistent with the prosecution theory. Applicant is falsely implicated in the offence. The medico-legal report also shows that no force was used and there was no penetrative assault.

6. Learned APP submits that age of the victim at the relevant time was 13 years and 4 months only. Her consent was immaterial. She was with applicant from 18.11.2025 to 07.12.2025. The supplementary statement of the victim, the statement of the informant under section 183 would clearly indicate that there was episode of

sexual encounter of the victim with the applicant. The medico-legal report would support the prosecution theory. There is no reason for false implication of the applicant.

7. Learned counsel appearing for the respondent no. 2 would advert my attention to section 65 of the BNS Act. The reliance is placed on the judgment of Supreme Court in the matter of ***X Vs. State of Jharkhand and another*** (Criminal Appeal No. 263 of 2022), to buttress that once the age of the victim is 13, any defence like love affair or the promise of marriage, would be immaterial and *prima facie* the offence is made out. There is incriminating material on record and the application is liable to be rejected.

8. First Information Report, the statement of the victim and the statements under section 183, unequivocally disclose that age of the victim was 13 years and 4 months at the relevant time. She had been with the applicant from 18.11.2025 to 07.12.2025. Her date of birth is recorded as 06.07.2012 in the Medico Legal Certificate.

9. The statement of the victim shows that she voluntarily left Gangakhed due to disputes with mother and called the applicant and, thereafter, refused to go back to home. Her statement under section 183 does not disclose any episode of sexual encounter. However, her supplementary statement and the statement under section 183 of the

informant would go to show that there was episode of sexual act between them. The omission to disclose episode of sexual act in the statement of the prosecutrix under section 181 and 183 is immaterial at this juncture.

10. The medico-legal certificate shows rupture of hymen. The provisional opinion shows that possibility of sexual intercourse, cannot be ruled out. No injuries are seen on the body. If the age of the victim was 13 years and 4 months at the time of the sexual overt act, whether it was consensual or without using any force, would be immaterial.

11. The respondent has relied upon the judgment of the Supreme Court in the matter of ***X V. State of Jharkhand and another*** (supra). In that case, anticipatory bail was granted by High Court of Jharkhand. The victim was barely 13 years old and the accused was facing allegations under section 376 of the IPC and section 6 of POCSO. It was pleaded by the accused that there was love affair. In this backdrop, the following observations are relevant :

“6. The High Court was manifestly in error in allowing the application for bail. The reason that from the statement under Section 164 and the averments in the FIR, it appears that “there was a love affair” between the appellant and the second respondent and that the case was instituted on the refusal of the second respondent to marry the appellant, is specious. Once, prima facie, it appears from the material before the Court that the appellant was barely thirteen years of age on the date when the alleged offence took place, both the grounds, namely that “there was a love affair” between the appellant and the second respondent as well as the alleged refusal to marry, are circumstances which will have no bearing on the grant of bail.

Having regard to the age of the prosecutrix and the nature and gravity of the crime, no case for the grant of bail was established. The order of the High Court granting bail has to be interfered with since the circumstances which prevailed with the High Court are extraneous in view of the age of the prosecutrix, having regard to the provisions of Section 376 of IPC and Section 6 of POCSO.”

12. Though the above observations of the Supreme Court are made in the matter of application for anticipatory bail, those would apply with same vigour to the present case also. Considering the age of the victim, I am of the considered view that there is a prima facie material to make out the offence.

13. Mr. Bilolikar, learned counsel for the applicant has also relied on the order of Co-ordinate Bench dated 06.02.2024 passed in Bail Application No. 2335 of 2023 (**Rahul Chandu Waghmare Vs. State of Maharashtra and another**). Victim in that case was medically examined and the report was negative. It was found that there was no fresh injury present over the body and it was not penetrative assault. The facts are distinguishable from the present case. Relying on the Supreme Court judgment referred above in the present matter, I have recorded my opinion against the applicant. The order cited above, would not enure to the benefit of the applicant.

14. The punishment under section 65(1) of BNS, is minimum 20 years and extends upto life imprisonment. Applicant is involved in a serious offence.

15. For the reasons stated hereinabove, I find that no case is made out to enlarge the applicant on bail. The Bail Application is rejected.

16. Fees of Advocate Mr. V.P. Bakal, appointed to represent respondent no. 2, is quantified at Rs. 5000/- (Rs. Five Thousand).

[SHAILESH P. BRAHME]
JUDGE

arp/