IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 492 OF 2026

Udaysingh Vikrant Gaikwad ...Applicant

Versus.

The State of Maharashtra and Ors. ...Respondents

Mr. Saurabh Tandale a/w Abdul Auti, Pratik Jadhav, Basit Mulla and Shivratna Wagh, Advocate for the Applicant.

Mr. Akshay Jagtap, Advocate for the Respondent No. 3.

Mr. C. D. Mali, APP for the Respondent – State.

API Kiran Patil, Mohol Police Station, is present,

CORAM : ASHWIN D. BHOBE, J.
DATE : 14th October, 2026.

P.C. :

1. Heard, Mr. Saurabh Tandale, learned Advocate for the Applicant, Mr. C. D. Mali, learned APP for the Respondent – State and Mr. Akshay Jagtap, learned Advocate for the Respondent No. 3.

2. By this Application filed under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023, the Applicant seeks pre-arrest bail, apprehending arrest in connection with Crime No. 563 of 2026 registered at Mohol Police Station, for offences punishable under Sections 137(2), 64 and 64(2)(m) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6, 8 and 12 of the Prevention of Children

from Sexual Offences Act, 2012.

3. In brief, the prosecution case is that the Respondent No. 3(mother of the victim), lodged a Missing Report on 8.06.2026, stating that on 7.06.2026, at about 7:30 p.m., when she returned from her labour work, she found that the victim was not at home. An investigation into the Missing Report revealed that two and a half years prior, the Applicant had committed sexual intercourse with the victim despite knowing that she was a minor.

4. Mr. Saurabh Tandale, learned Advocate for the Applicant, submits that the Applicant is a young boy. He submits that the Applicant and Respondent No. 3 were friends. He further submits that the friendly relationship between the Applicant and the victim developed into love.

5. Mr. C. D. Mali, learned APP for the Respondent – State, submits that the allegations against the Applicant are that he committed sexual intercourse with the victim, who was 16 years of age. He further submits that during the victim's medical examination, the victim disclosed to the Medical Officer that she was the Applicant's friend, was in love and had been in a relationship with the Applicant for almost two and a half years.

6. Mr. Akshay Jagtap, learned Advocate for the Respondent No. 3, submits that Respondent No. 3 (the mother of the victim), had filed the complaint based on a misunderstanding. To clarify, he submits that the Applicant and the victim were in love, which Respondent No. 3 subsequently realized. He submits that Respondent No. 3 has no grievance against the Applicant and is not interested in pursuing the complaint.

7. Perused the records with the assistance of the learned Advocates for the parties.

8. Prima facie, the relationship between the Applicant and the victim does not appear to be based on lust.

9. This Court, in the case of *Sunil Mahadev Patil vs. The State of Maharashtra*[1] in paragraph Nos. 8 to 12, has made the following observations:

> *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*

1 2015 SCC OnLine Bom 6204

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.

9. In view of the increasing offences against the women especially of rape, the legislature and judiciary both found it obligatory to deal these offences with severe punishment and women can be protected if the laws are made rigorous. Therefore, report of Justice Verma Committee was accepted and necessary and significant amendments were made in these two sections. A wrong doer is to be punished, guilty is to be convicted. However, at the stage of bail, the Court has to consider prima facie under what circumstances the offence is committed by the accused. In the Criminal law, the Court cannot ignore the intention or motive behind the act and that is an important factor in the commission of offence so also to decide the quantum of sentence at the end of trial, so in the case of bail.

10. The offence of rape can be distinguished on the basis of the intention of the accused. There are incidents of rapes committed by gang like the case of Nirbhaya or Maya Thagi or Mathura which cannot be forgotten by Indian Society. So also rape committed in a savage manner or repeatedly by a single accused. There are some instances of rape which take place as a man wants to satisfy his lust and animal within him overpowers his reason. There are instances of rape where a man and a woman both are in love with each other and get involved into sexual relationship due to either physical or psychological need and in such type of rape, there is no violence which exists in other types of rape.

11. Today teenagers are exposed to more sex related issues and lot of material is also available to them to know the sexual relationship between a man and a woman. Because of their impressionable age, girls and boys both may tend to get provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. Sexual urge differs from person to person and there cannot be any mathematical formula in respect of sexual behavioral pattern of teenagers, as biologically whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on the upbringing, peer pressure, how civilized the environment is etc. Sex requires proper physical and emotional preparation, as it results in many physical and emotional consequences. This is all considered as a sexual maturation. Therefore, some sects with view to regularize sexual behaviour of the community have acknowledged this biological factor and therefore, the early age marriages are performed in some religions or communities. Taking into consideration this social and biological factors, the law makers

have considered the age of 15 as a age of consent when the marriage is performed. Taking into consideration this background, the trial Judge has to pass an order of bail in such cases.

12. The overall considerations while deciding such applications can be summed up as-

When a boy and a minor girl are in love with each other and chose to live together without consent of their parents, then the following factors are to be considered:

(i) What is the age of the prosecutrix, who is minor.

(ii) Whether the act is violent or not.

(iii) Whether there are antecedents or not.

(iv) Whether the offender is capable of repeating the Act or not.

(v) Whether there is likelihood of threats or intimidation, if at all the boy is released.

(vi) Whether any chance of tampering with the material witnesses when their statements are recorded.

(vii) It is also to be taken into account in such cases that a boy in his early 20's deserves to get employment and to plan, stabilize and secure his future.

10. The facts revealed in the file of this Application attract the observations made by this Court in Sunil Mahadev Patil (Supra).

11. Considering the factual matrix and the nature of allegations, the fact of the Applicant and the victim having a love relationship not being contested and there being no allegations of the Applicant having ill-treated or committed any violent act against the victim, the custodial interrogation of the Applicant in Crime No. 563 of 2026 is not required.

12. In view of the above, this Application is allowed on the following terms:-

(a) In the event of arrest of the Applicant in Crime No. 563 of 2026, registered with Mohol Police Station, the Applicant shall be released on bail upon furnishing a PR bond of Rs. 10,000/- with one or two sureties in the like amount, to the satisfaction of the Investigating Officer of Mohol Police Station.

(b) Applicant shall appear and report to the Investigating Officer, Mohol Police Station, on 19th and 21st October, 2026 from 10:00 am to 11:00 am and thereafter as and when required by the Investigating Officer. The Applicant shall co-operate with the investigation in Crime No. 563 of 2026.

(c) Applicant shall undergo a medical examination as and when required by the Investigating Officer.

(d) Applicant shall not tamper with evidence in any manner.

(e) The Applicant shall provide the Investigating

Officer at Mohol Police Station his residential address with proof, his contact number, email and must inform the Investigating Officer of any changes to this information from time to time.

(f) In the event of any default in complying with the conditions or misuse of the liberty granted to the Applicant, the prosecution shall be at liberty to seek cancellation of bail.

13. Anticipatory Bail Application No. 492 of 2026 is disposed of.

(ASHWIN D. BHOBE, J.)

ARJUN KRISHNA RODGE
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