

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.3614 OF 2025**

Vikas Pandurang PatilApplicant
Vs.
The State of Maharashtra & Anr.Respondents

Mr. Mahindra Deshmukh, for the Applicant.
Mr. Anand S. Shalgaonkar, APP, for the Respondent No.1-State.
Mr. Nakul Vivek Shukla, for the Respondent No.2.
Mr. Ujwal Shrirang Kadam, PC/1694, Tebewadi Police Station,
District Satara is present.

**CORAM : MRS. VRUSHALI V. JOSHI, J.
DATED : 23rd FEBRUARY 2026**

PC.:-

1. The Applicant is arrested in Crime Registration No. 53 of 2025 registered with Dhebewadi Police Station, District Satara for the offences punishable under Sections 64(1) 64(2)(f), 65(1), 351(3) of the Bharatiya Nyaya Sanhita, 2023 (**'BNS'**) and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (**'POCSO'**)

2 It is alleged that the accused committed offence of rape on the victim who is the cousin of accused aged about 12 years and 5 months. On the complaint lodged by the mother of the victim, the offence is registered.

3. The counsel for Applicant has stated that as per the FIR there is no complete penetration. The touching the vagina is not the offence under Section 3 of the POCSO. There is an attempt to commit sexual assault. Therefore, as the offence is not committed, so also there is dispute between the families and therefore, he is falsely implicated. Hence, prayed to release him on bail.

4. The learned APP opposed the application stating that the offence comes under Section 3(b) of the POCSO which includes the touching the vagina, however complete penetration is not required. He has relied on the Judgment of the Hon'ble Apex Court in the case of *Nawabuddin v. State of Uttarakhand*,¹ wherein the Hon'ble Apex Court has held that fingering also comes under Section 3(b) of the POCSO as penetrative sexual assault. Hence, prayed to reject the application.

5. The learned counsel for the Respondent No.2 opposed the application stating that the heinous act is committed by the applicant. Hence, prayed to reject the application.

6. Heard learned counsel appearing for both the parties.

¹ 2022(5) SCC 419.

7. On perusal of FIR, it shows that the Applicant has touched her vagina by his penis. The touching of the vagina to any extent with penis amounts to penetrative sexual assault and it comes under the definition of Section 3(b) of the POCSO. The Applicant is 35 years of age. He has committed sexual assault on the cousin, who is 12 years of age. Considering the act of the Applicant, this is not a fit case to release the Applicant on bail.

8. Hence, the Application is rejected.

(MRS. VRUSHALI V. JOSHI, J.)

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