

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 245 OF 2026

Sunil Bhiva @ Bhivaji Kharat

VERSUS

The State of Maharashtra And Anr.

...

Mr. Laxman Kalel, Advocate for Applicant.

Ms. Twinkal P. Kotawadekar, Advocate for Respondent No.3.

Mr. Nitin B. Patil, APP for the respondent Nos.1 and 2-State

...

CORAM : SACHIN S. DESHMUKH, J.

DATE : 15th APRIL, 2026.

P. C. :

1. The applicant seeks regular bail in connection with C.R. No. 752 of 2025 dated 14.09.2025 registered with Sangola Police Station, District Solapur for the offences punishable under Sections 64(1), 64(2)(i), 64(2)(m), 351(2), 351(3), 3(5) of the *Bhartiya Nyaya Sanhita, 2023*, Sections 4, 8, 12 read with Section 42 of the Protection of Children From Sexual Offences Act, 2012 and Sections 3(1)(w)(ii), 3(2), 3(v) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989.

2. Learned Counsel for the applicant submits that the applicant has been falsely implicated in the case. The applicant has no

criminal antecedents. Since the charge-sheet is filed, further detention of the applicant is not required. Hence, prayed to allow the application.

3. Per contra, learned APP and learned Advocate for Respondent No.3 opposed the application submitting that the offence is serious in nature. The applicant has committed sexual assault against the minor resulting into pregnancy, thereby giving birth to a child. An apprehension is also expressed that if the applicant is enlarged on bail, there is every possibility of the applicant threatening the victim or causing harm to the child. Hence, prayed to reject the application.

4. Having heard the submissions from the respective sides and upon perusal of the record including charge-sheet *prima facie* indicates that initially, the FIR was lodged against the applicant for having committed penetrative sexual assault against the victim and his arrest came to be effected. However, during investigation it surfaced that the co-accused namely Lakhan was involved in the crime. The said fact is further admitted and corroborated by the statement of victim under Section 183 of the BNSS.

5. Accordingly, the DNA samples of both the accused were taken and sent for analysis. Subsequently, the DNA report was submitted wherein the co-accused is opined to be the biological father of the child.
6. In view of the aforesaid facts and circumstances coupled with the inconsistency in the statement of the victim, there is possibility of over implication against the applicant.
7. Nevertheless, the investigation is complete for all intent and purpose, resultantly, the charge-sheet is filed. Having regard to the age of the applicant and his period of detention from his arrest on 15.09.2025 which for more 7 months, in my considered opinion may amount pre-trial detention, which is neither justified nor warranted. Hence, I am inclined to exercise the discretion in favour of the applicant.
8. As far as the apprehension expressed by the learned A.P.P. in relation to the applicant threatening the victim or causing harm to the child, the same can be adequately taken care of by imposing stringent conditions. I am, therefore, persuaded to exercise the discretion in favour of the applicant.
9. Hence, the order :-

ORDER

- I. The bail application is allowed.
- II. Applicant - Sunil Bhiva @ Bhivaji Kharat be released on bail, on furnishing P.R. bond in the sum of Rs.50,000/- (Rs.Fifty Thousand) with one or two local solvent sureties, in the like amount, in connection with C.R. No. 752 of 2025 dated 14.09.2025 registered with Sangola Police Station, District Solapur for the offences punishable under Sections 64(1), 64(2)(i), 64(2)(m), 351(2), 351(3), 3(5) of the *Bhartiya Nyaya Sanhita, 2023*, Sections 4, 8, 12 read with Section 42 of the Protection of Children From Sexual Offences Act, 2012 and Sections 3(1)(w)(ii), 3(2), 3(v) of the Scheduled Castes and Schedule Tribes (Prevention of Atrocities) Act, 1989, on the following conditions :-
- (a) The applicant shall not pressurize the prosecution witnesses and tamper with the prosecution evidence, in any manner.
 - (b) The applicant shall attend the trial on each and every date unless exempted by the trial Court.
 - (c) The applicant shall submit Aadhar and Pan Cards to the Investigating Officer and detailed address and phone numbers and two of the near relatives.

(d) In case of breach of any of the conditions by the applicant, it is open for the Prosecution to approach the concerned Court seeking cancellation of bail, notwithstanding the fact that this Court has granted bail.

III. Needless to state that the observations rendered herein are to the extent of this application and the trial Court shall not be influenced by the same.

[SACHIN S. DESHMUKH, J.]