

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

CRIMINAL BAIL APPLICATION NO. 246 OF 2026

SHIVAJI YASHWANT KADAM
VERSUS
THE STATE OF MAHARASHTRA AND OTHERS

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Advocate for Applicant : Mr. Shailesh Chavan a/w
Mr. Amarsingh Katkar a/w Mr. Sujit Nikam

APP for Respondents/State : Mr. Nitin B. Patil

Advocate for Respondent No.3 : Mr. Preetam Raje (Appointed)

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CORAM : MEHROZ K. PATHAN, J.
DATE : 17th JUNE 2026

PER COURT :

1. Heard the learned Counsel for the Applicant, the learned Counsel for Respondent No.3 and the learned APP for the State.
2. The Applicant has approached this Court, seeking regular bail in connection with Crime No.113/2025 registered with Satara City Police Station, District Satara for the offences punishable under Sections 64, 351(2), 65(2) of the Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.
3. The case of the prosecution is that the Informant is the

mother of the victim. On 03.02.2025 she received phone call of the class teacher of the victim, who called the informant in the school. When informant along with her husband went in the school, the class teacher of the victim disclosed to her that three chits having obscene contents were found in the pouch of the victim. When the informant went through the contents, she inquired with the victim about it and then victim disclosed to her that since October 2024 to 26.12.2024, accused called the victim in his house, touched her private part and repeatedly caused sexual assault on her and during the said act, he also snapped photos and videos of the victim. Hence, the FIR was lodged.

4. The learned Counsel for the Applicant submits that the Applicant has been falsely implicated in the present crime. The Applicant has been added as an accused solely on the basis of certain chits found in the purse belonging to the victim girl. Apart from this, there is no evidence to connect the Applicant with the alleged offence. The Applicant, aged 63 years, has been in custody since 04.02.2025. The trial has not yet commenced, and several witnesses are yet to be examined.

. The learned Counsel further submits that the observations of the Medical Officer, while conducting the medical examination of the victim girl, indicate that evidence of penetrative sexual intercourse cannot be confirmed. However, the final opinion has been reserved pending receipt of the FSL report, which is yet to be obtained. It is further submitted that the trial will take considerable

time to conclude. Hence the Applicant may be protected.

5. As against this, the learned APP as well as the learned appointed Counsel for Respondent No.3 strongly oppose the application on the ground that the Applicant is involved in the serious offence of committing sexual intercourse upon the minor victim girl, aged ten years. The name of the Applicant was revealed from the chits found in the purse of the victim girl within the school premises. The concerned teacher, who had discovered the said purse, attempted to verify its ownership and, upon doing so, found the chits inside. The purse also bore the name of the minor victim girl. The purse, along with the chits, was then handed over to the class teacher of the victim girl. The class teacher called upon the mother of the victim girl and informed her about the chits. The chits contained vulgar messages addressed to the victim girl. The statement of the victim girl has been recorded under Section 164 Cr.P.C., wherein she reiterated the allegations made in the FIR lodged by her mother. The statement clearly indicates that the Applicant committed penetrative sexual assault upon the minor victim girl. The statements of the victim girl's classmates, who are also minors, have been recorded. The statement of the teacher who found the chits has likewise been recorded, corroborating the allegations in the FIR. The medical examination of the victim girl further substantiates the allegations, as the hymen of the ten-year-old girl was found to be ruptured. The offence is grave in nature. There is every likelihood that if released on bail, the Applicant may again indulge in similar offences and may

also threaten the victim girl, thereby causing prejudice to the prosecution case. Hence this is not a fit case to release the Applicant on bail.

6. I have gone through the investigation papers which have culminated in the filing of the charge-sheet. The charge-sheet contains the medical examination report of the victim girl. The medical examination shows that the hymen of the ten-year-old victim was found to be ruptured. The investigation papers also contain the statement of the minor victim girl, wherein she has directly alleged that the Applicant committed penetrative sexual assault upon her. There are further allegations that the Applicant took photographs and videos of the victim girl and blackmailed her. The statements of other students studying with the victim girl have also been recorded under Section 183 of the Bharatiya Nyaya Sanhita (BNS), corroborating the allegations. The teachers have likewise substantiated the allegations made in the FIR regarding the seizure of the chits. The chits found in the possession of the victim girl were seized and sent to the forensic handwriting expert for obtaining a report. Thus, there is ample evidence connecting the Applicant with the present crime. The Applicant is alleged to have committed penetrative sexual assault punishable under Section 6 of the POCSO Act. The offence is grave in nature and is punishable with life imprisonment, which shall mean imprisonment for the remainder of the life.

7. The Hon'ble Supreme Court in the case of **Sheikh Mehmood Vs. Union Territory of Jammu and Kashmir 2026 INSC 611**, has held that the plea of long incarceration does not by itself constitute an absolute ground for granting relief to an accused charged with heinous offences. The Hon'ble Supreme Court was pleased to observe as under :

31. Evidence on record before the Sessions Court till now has been noticed by us. "Bail is the rule and jail is an exception", although is a cardinal principle of bail jurisprudence in India, it is not an absolute rule. The rule is sort of a guiding principle that should be kept in mind along with the facts of each case and statutory restrictions, if any, while considering a prayer for bail. In relation to offences such as the one under consideration, murder and conspiracy are serious offences. Section 437(1) of the CrPC bars grant of bail if reasonable grounds exist that the accused has committed an offence which is punishable with either death or life imprisonment. The cardinal rule has to be balanced with factors like prima facie case, gravity of offence, nature of evidence, antecedents, differentiation of roles, parity, delay in conclusion of trial, age of the accused, medical grounds, etc. However, bail could be declined if the offence is heinous and premeditated, there is grave apprehension of the witnesses being influenced or the evidence being tampered, a possibility of the accused absconding should he be granted bail and thereby evading trial, etc.

8. The FIR shows that there are allegations against the Applicant of writing chits to the minor victim girl and demanding that she arrange for some more girls if she is not ready to indulge in sexual favours with the Applicant. Taking into consideration the gravity of the allegations and the evidence collected by the

prosecution in the form of medical examination report corroborating allegations of penetrative sexual assault and statements of minor victim girl and other minor girls which corroborate the allegations and the likelihood that the Applicant may indulge in identical conduct, thereby causing a threat to the minor victim girls in society, I am not inclined to entertain the present application. The application is therefore rejected.

9. The fees of the learned appointed Counsel shall be quantified at Rs. 10,000/- to be paid by the High Court Legal Aid Sub-Committee.

MEHROZ K. PATHAN
JUDGE

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