IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 110 OF 2026

Diwakar Lokayya Shetty ... Applicant
V/S.
State of Maharashtra and Anr. ... Respondents

WITH
BAIL APPLICATION NO. 2802 OF 2026

Vinaykumar Gangaprasad Nishad ... Applicant
V/S.
State of Maharashtra and Anr. ... Respondents

Ms. Anjali Patil a/w. Tohid Shaikh, for the Applicant in BA/110/2026.
Mr.Anish Desai a/w. Genevieve Lobo and Shweta Sinon, for Applicant in BA/2802/2026.
Mr. T.G. Khan, APP for Respondent No.1–State.
Ms.Sandhya Nair a/w. C.Chetna Birje and Bhiyang More, Respondent No.2.

CORAM: SHYAM C. CHANDAK, J.
DATED : 18th AUGUST, 2026

P.C. :-

1. Heard learned Counsel for the parties. Perused the record. Ms. Patil tendered the Order of bail in Criminal B.A.No.1438/2025 by learned Additional Sessions Judge,-3, Thane. It is taken on record and marked at Exhibit "X" for the purpose of identification.

2. The Applicants Diwakar L. Shetty in BA/110/2026 and Vinaykumar G. Nishadin in BA/2802/2026, original Accused No.4 and 2 respectively ("**A4 and A2**") seek their release on bail in connection with Crime No.329 of 2025 registered with Charkop Police Station, Mumbai for the offences punishable under Sections

64(2)(f)(m), 65(1), 79, 118(1), 143(4), 144(1) and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short, "**BNS**"), under Sections 4, 6, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012 ("**POCSO Act**"), under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, 1956 ("**PITA Act**"), and under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015 ("**JJ Act**"), on the report dated 04.07.2025 lodged by the victim, allegedly aged 16 years.

3. The prosecution case is that at the relevant time, the victim girl, her mother (A1) and her step father (A2) were residing together. When the victim was 14 years of age, A1 told her that she will have to do prostitution. Therefore, as stated in the FIR, about 7 to 8 months prior to the incident, A1 forced the victim to have sex with A2. Then, A2 committed sexual intercourse with the victim for four consecutive days and consequently she suffered bleeding and pain. However, A1 told the victim that it is normal. Further, A1 used to send her to various hotels for prostitution at Mira Road. It is alleged that Accused No.3 Vikaramsingh Parmar (A3) used to drive the victim to such hotels in his auto-rickshaw on the say of A1 and, there, some person from the hotel used to send her with customers to have sex with them. That A3 used to charge Rs.700/- towards the auto-rickshaw services. It is alleged that A3 also used to rape her on 2/3 days of a weeks after driving her back home. At that time, her mother-A1 used to stay outside. Therefore, if the victim was not earning on any day, A3 was not charging her the auto-rickshaw fare. In the supplementary statement, the victim alleged that the A4 used to run hotel Mantra at Mira Road. There, he used to send the victim with customers for the purpose of prostitution and he used to charge the customers

Rs.2,000/- to Rs.3,000/- per half an hour. Thus, the Applicants have committed the aforesaid offence alongwith the co-accused.

4. Ms. Patil, learned Counsel for the Applicants submits that Although A4 was allegedly running the said hotel, he was not aware of the fact that the victim was minor because as per her Aadhar Card, her age was 21 years. It is not the case that, at any point of time, A4 had forced the victim to serve as prostitute. On the contrary, she herself used to visit his hotel for the said purpose. Therefore, the offence under POCSO is not applicable in case of the A4. In the another crime, which is registered for similar allegations, the Applicant is granted bail. Therefore, she submits that the Applicants be released on bail.

5. Mr. Desai, learned Counsel for A2 submitted that in the Report, it is alleged that A2 had raped the victim about 7-8 months prior to the lodging of the Report. However, in the supplementary statement, the victim stated that it was about one year prior to the lodging of the report. As per the Aadhar card, the victim is aged 21 years and as per the ossification test, she was 16 years of age. Thus, there is material inconsistency in the material on record. There is no age proof of the victim. He submitted that the victim herself was involved in the prostitution and A2 never told her to do that. Thus, A2 is innocent, but, he has been been falsely implicated in the case. He, therefore, urged for bail.

6. In reply, Mr. Khan, learned APP and Ms. Nair, learned counsel appearing for the victim submitted that there is sufficient material against both the Applicants of having committed this offence which is obviously serious. Therefore, bail be refused.

7. I have considered the submissions. Insofar as A2 is concerned, in her Report and the statement under Section 181 of the BNSS, the victim has consistently stated that when she was aged 14 years, A2 had raped her for consecutive four days at the instance of A1, to force her in prostitution. When she refused to do prostitution, her mother-A1 had given her burns with hot knife. The medical report clearly indicate that the victim was minor. However, A2 never stopped the A1 from forcing the victim in prostitution. Thus, there is a prima facie case against the Applicant of having committed this crime.

8. Insofar as A4 is concerned, there is only allegation that he used to send the victim with customers and he used to charge the customers on hourly basis towards room services. However, there is no material that A4 had called the victim to the hotel to serve as prostitute. On the contrary, she was going there at the instance of her mother-A1. Moreover, the Aadhar Card which she was carrying indicated her aged as 21 years. Till carrying out the raid related to another crime, the Applicant never complained against the A4 that he was sending her with customer for prostitution. Ms. Patil submitted that the other victims were major. Therefore, A4 deserves to be released on bail.

9. Insofar as criminal antecedent is concerned, Crime No.301 of 2025 registered with Kashimira Police Station against A4 and others is of similar nature. Therein, A4 has been released on bail *vide* Exh.X.

10. In the wake of above, BA/2802/2026 filed by Accused Vinaykumar Gangaprasad Nishad is liable to be rejected and is

rejected accordingly. However, BA/110/2026 filed by Accused Diwakar Lokayya Shetty deserves to be allowed. Hence, Order :-

(i) The Applicant Diwakar Lokayya Shetty be released on bail in aforesaid Crime No.329 of 2025 registered with Charkop Police Station, Mumbai, on his executing P.R. Bond in the sum of Rs.1,00,000/- with one or two sureties in the like amount.

(ii) The Applicant shall mark his attendance at Charkop Police Station on 1st Monday every two month between 11:00 a.m. to 2:00 p.m. till conclusion of the trial.

(iii) The Applicant shall regularly attend the proceedings before the jurisdictional Court unless exempted by the said Court, for the reasons to be recorded in writing.

(iv) The Applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witnesses to prevent them from deposing against him.

(v) On being released from jail, the Applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(vi) The Applicant shall not indulge in identical activities for which he has been arraigned in this case.

(vii) The Applicant Diwakar Lokayya Shetty shall not enter in Mumbai area/Mumbai District till conclusion of the trial,

except for marking his attendance in the police station in this crime and the another cirme and in the cases arising out of said crimes.

(viii) It is clarified that any observation made in the present Order are for the purpose of deciding the present Bail Application and should not influence the outcome of the trial and also not be taken as an expression of opinion on the merits of the case.

11. Bail Applications stand disposed of in the aforesaid terms.

(SHYAM C. CHANDAK, J.)

Signed by: Sanjay A. Mandawgad
Designation: PA To Honourable Judge
Date: 19/08/2026 16:38:24