Ajay

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3156 OF 2026

Ganesh Kailas Pawar .. Applicant

Versus

State of Maharashtra .. Respondents

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- Mr. Kuldeep Nikam a/w Mr. Om N. Latpate, Mr. Samadhan Ghumare, Advocates for Applicant.
- Mr. Yogesh M. Nakhwa, APP for Respondent No.1 – State.
- Ms. Laurel Menezes, Advocate appointed through Legal Aid for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 13, 2026.

P.C.:

1. Heard Mr. Nikam, learned Advocate for Applicant; Mr. Nakhwa, learned APP for Respondent No.1 – State and Ms. Menezes, learned Advocate appointed through Legal Aid for Respondent No.2.

2. This is an Application under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 seeking bail in connection with C.R.No.688 of 2025 dated 31.10.2025 registered with Satana Police Station, Nashik for the offences punishable under Sections 64(2)(f), 64(2)(i), 64(2)(m), 65(1), 75, 76 and 351(2) of the Bharatiya Nyaya Sanhita, 2023 (for short '**BNS**') along with Sections 4, 6 and 10 of the Protection of Children from Sexual Offences Act, 2012 (for short '**POCSO Act**').

3. Applicant before me is the sole accused of 36 years old. He is arrested on 31.10.2025. On 07.05.2026 Special Court, Malegaon rejected Applicant's bail in C.R.No. 688 of 2025. Hence, Applicant filed present bail application. Investigation is complete and charge-sheet is filed. Applicant is incarcerated for 11 months and 14 days.

4. Briefly stated, Applicant and Complainant are husband and wife. They have three daughters and one son. Victim is their eldest daughter and she is now 15 years and 5 months old. It is alleged that the Applicant is an alcoholic and that, under the influence of alcohol, he often assaults his family members. On 21.10.2025 also Applicant had assaulted Complainant. Hence she had filed Complaint on 25.10.2025 with Satana Police Station where victim had also accompanied her. They were asked to remain present on 31.10.2025 at their residence for investigation purpose.

4.1. It is alleged that when Police left after completing their investigation victim started crying and narrated the story to her. According to FIR it is alleged that sometime after '*Rakshabandhan*' when Complainant alongwith her daughter - Akshada and son - Harshad went to visit grandmother at Parner. During the same period, Applicant sent younger daughter - Pari to bring charger from her uncle. It is alleged that between 01:00 to 01:30 in the afternoon Applicant committed sexual assault on victim and forcibly established

physical relation with her.

4.2. Thereafter also on one occasion when Complainant had gone to work in farm, Applicant committed the same act. It is alleged that Applicant threatened victim not to disclose this to anyone or else he will kill her and throw her in well, hence she did not disclose it earlier. However, complaint filed by Complainant against Applicant gave the victim courage to disclose these facts. Hence on 31.10.2025, Complainant i.e. mother of victim lodged the FIR against her husband for alleged offences.

5. Mr. Nikam, learned Advocate for Applicant would submit that a *malafide*, false and fabricated case has been filed against Applicant. He would submit that learned Trial Court failed to appreciate the contradictions in statement made by victim. He would submit that there was quarrel between Applicant and Complainant and to teach a lesson to him, she lodged a false complaint alleging allegations of sexual assault towards victim i.e. their own daughter. He would submit that there is variance in the complaint filed and statement of Complainant recorded under Section 164 of Code of Criminal Procedure Act, 1973. He would submit that medical examination report does not show any injuries corroborating with having physical relation with victim. Hence, there is no *prima facie* material on record to substantiate the allegations against Applicant

which entitles the Applicant to be released on bail.

6. Mr. Nakhwa, learned APP for State has vehemently opposed the Bail Application. He would submit that sexual offences against minor girls affects their modesty and dignity. He would submit that hesitation, trauma, fear, embarrassment and social stigma reasonably explain the causes of delay in lodging FIR. He would submit that victim is minor and there exists reasonable apprehension that if the Applicant is released on bail, he may attempt to contact, intimidate or influence the victim, other family members and witnesses which would create a hurdle in the trial. He would submit that considering the serious nature of offence, prosecution is desirous of examining 17 witnesses in the trial and the same will be completed expeditiously which would eventually prove the guilt of Applicant as there is sufficient *prima facie* material on record to establish his complicity. He would submit that gravity of such offences against minors needs to be taken into consideration by the Court. Hence he has urged the Court to reject the Bail Application.

7. Ms. Menezes, learned Advocate appointed through the Legal Aid to espouse the cause of Respondent No.2 would adopt and support the submissions of the learned APP and would additionally submit that in cases where accused is indicted under the provisions of POCSO Act, Courts should be cautious while granting bail to offenders considering

the intent of the legislation behind enactment of the POCSO Act which is to provide protection to children like the victim herein. She would submit that delay in reporting matters arising out of POCSO Act is not fatal to the prosecution case as the victim being minor was scared to disclose the incidents to anyone. She would therefore urge the Court to reject the Bail Application considering her above submission and allow the trial to be completed.

8. I have heard the learned Advocates for both the parties and perused the record of the case. *Prima facie*, it is seen that in the statement of Complainant under Section 164 which is appended at page No.60 of bail application she has stated that she went to her maternal place after '*Rakshabandhan*' and on that night in her absence alleged assault was committed. It is seen that she has further stated that her daughter had told her about alleged assault on the very next day after she had returned from her maternal house. It is seen that Complainant has further stated that 8 days thereafter Applicant once again committed alleged assault against victim when she was alone at home when Complainant had gone to work in the farm. It is seen that she has stated that victim had also told her about the said incident immediately after she returned from the farm. It is seen that she has stated that when Complainant questioned Applicant about alleged incidents he assaulted the Complainant with a broom. However, the said facts are absent in the FIR at the threshold.

9. However, on perusal of statement of victim recorded on 01.11.2025 which is appended at page No.74 of bail application she has stated that on 09.08.2025 Complainant went to her maternal house for '*Rakshabandhan'* alongwith her younger sister and brother namely Akshada and Harshad. It is seen that she has stated that around 15 days thereafter second incident happened which does not match with Complainant's version. It is seen that in said statement she has stated that she gathered courage and told her mother about alleged incident only because Complainant had dared to file complaint against Applicant with Satana Police Station. It is seen that these statements contradict with her later statement recorded under Section 164 on 07.11.2025 which is appended at page No.63 of the bail application.

10. In the statement under Section 164 she has stated that on the day of '*Rakshabandhan'* Complainant went alongwith her son only to her maternal place and victim alongwith her two younger sisters were at home. It is seen that victim has stated that her both sisters were sleeping next to her and around 12:00 a.m. Applicant woke her up by showing fear of scythe and knife and took her in the bedroom and sexually assaulted there. It is seen that victim has stated that she had told Complainant about the alleged assault on very next day after she returned. Next victim has stated that the second incident happened 2-3 days thereafter and Complainant was informed about the alleged

second incident also on very same day in the evening. However it is seen that previously victim stated that second incident happened 15 days thereafter. There appears to be a clear inconsistency in the statements of the victim.

11. Moreover, I have perused the statements of Complainant's father and brother which were recorded on 03.11.2025 and statements of Complainant's brother-in-law and father-in-law which were recorded on 04.11.2025 which are appended at page Nos.76 to 79 respectively. It is seen that all of them are interested witnesses and have narrated similar hearsay material. It is seen that they all have stated that on 31.10.2025, victim started crying after Police left on completion of their investigation in the domestic violence case. It is seen that they all have stated that victim had told Complainant that when Complainant had gone to her maternal place alongwith her daughter and son, Applicant sexually assaulted victim on that night by showing her fear of scythe and knife. It is seen that they all have stated that victim did not disclose this incident to anyone out of fear at that time and around 15 days thereafter second incident happened which is contrary to the victim's version.

12. It is pertinent to note that in their previous statements both Complainant and victim stated that alleged incidents had not been disclosed to anyone. However, in their subsequent statements they

stated that the alleged incidents had been disclosed immediately after their commission. Furthermore, there is a discrepancy regarding the time interval between the two alleged incidents. According to the Complainant, the second incident occurred eight days after the first incident, whereas according to the victim, it occurred two to three days after the first incident. It is seen that in all other instances, however, the interval is stated to be fifteen days.

13. From the above there exists a clear dichotomy and improvement in the Section 164 statement. This is a clearly material circumstance which carries doubt and suspicion attached to the subsequent narrative. In my opinion, the case against the Applicant appears to have been fabricated with the intention of teaching him a lesson. It is seen that while it may be true that the Applicant is an alcoholic and has been harassing his family, such circumstances cannot, by themselves, justify the levelling of serious allegations against him merely to teach him a lesson. It is seen that such an approach would be contrary to the principles of fairness and human conscience. I am, therefore, inclined to accept the submissions advanced by Mr. Nikam.

14. It is *prima facie* seen that statements of Complainant and victim are inconsistent with the core facts of the case. Therefore, material improvements / contradictions in the subsequent statements

of Complainant and the victim both, incline me to disbelieve the case of the prosecution at the threshold and persuades me to consider the case of Applicant for grant of bail. Needless to state that complicity of Applicant in the crime shall be proved at trial.

15. Hence, in view of my above *prima facie* observations, Applicant is granted bail subject to following conditions:-

(i) Applicant - Ganesh Kailas Pawar is directed to be immediately released from prison in connection with C.R.No.688 of 2025;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs. 25,000/- (Rs. Twenty Five Thousand only) with one surety of the like amount;

(iii) Applicant shall report to the Investigating Officer at the Satana Police Station, Nashik, once every month on the first Saturday of the month between 10:00 a.m. to 12:00 p.m.;

(iv) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates, unless specifically exempted and will not take any unnecessary adjournments, if he does so it will entitle the prosecution to apply for revocation of this order;

(v) Applicant shall not leave the State of Maharashtra without

prior permission of the Trial Court;

(vi) Applicant shall not influence with any of the witnesses or tamper with the evidence in any manner;

(vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time, as applicable; and

(viii) Any infraction of the conditions shall entail cancellation of bail granted to the Applicant.

16. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case. The trial shall be adjudicated on the strength of the evidence led and strictly on its own merits being uninfluenced with any of the *prima facie* observations made herein above in this order.

17. This Court appreciates the valuable assistance rendered by Ms. Menezes, learned Advocate appointed through the Legal Aid to espouse the cause of Respondent No. 2. Her fees be paid by the High Court Legal Aid Services Authority as per rules on production of a server copy of this order and other compliances in accordance with the decision of this Court in the case of ***Sanjyot Nitin Telharkar Vs. The***

State of Maharashtra & Anr.[1] and the Schedule under Regulation 18(1) of the Maharashtra State Legal Services Authority Rules, 1998.

18. Bail Application No.3156 of 2026 is allowed and disposed.

[MILIND N. JADHAV, J.]

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AJAY TRAMBAK UGALMUGALE

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Date: 2026.10.17 13:06:48 +0530

1 Misc. Civil Application No.134 of 2024 – Decided on 25.09.2024.