HARSHADA H. SAWANT
(P.A.)

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.3574 OF 2026

Mayur Pravinbhai Makwana .. Applicant

Versus

The State of Maharashtra and Anr. .. Respondents

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- Mr. Mr. Vivek Arote a/w. Mr. Akshay Dingale, Advocates for Applicant.
- Ms. Rajeshree V. Newton, APP for Respondent No.1.
- Mr. Dhanesh Sanjay Sharma, Advocate (appointed) for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 09, 2026

P.C.:

1. Heard Mr. Arote, learned Advocate for Applicant; Ms. Newton, learned APP for Respondent No.1 and Mr. Sharma, learned appointed Advocate for Respondent No.2.

2. This is an Application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Bail in connection with C.R. No.11 of 2025 registered with Bharti Vidyapith Police Station, Pune for offences punishable under Sections 70(1), 351(2) and 3(5) of the Bharatiya Nyaya Sanhita, 2023.

3. Applicant is arraigned as Accused No.3 in the present case. There are two other accused persons who are already on enlarged on bail. Case of the prosecution as per the victim's version who is an adult,

is that on the intervening night of 03.01.2025 and 04.01.2025 she had traveled from Mumbai to Pune to visit her friend's place after having a quarrel with her husband. At her friends place she was put up and offered certain drinks by her friend after which she became unconscious and it is alleged that there were three persons who had then had physical relationship with her. Applicant is not named by her. Intriguingly the prosecution case proceeds on the basis that the persons who have been named by the victim namely Ganesh and Shubham, are none other than the present Applicant. It may even be true that it may be the Applicant who may be present but the version of the victim is thoroughly inconsistent when she names the other two co-accused persons as being present whereas identification and identity of the present Applicant is not established. Further statement given during her medico-legal examination is also *prima facie* inconsistent with her own version as stated in the First Information Report.

4. Further a supplementary statement has been recorded on 06.01.2025 of the victim wherein she gives a completely different version of the incident in question and the fact that instead of three persons, there was only one person who was present at the time of the incident. The case of prosecution becomes evident when the witness statement of a friend of the victim is recorded, a copy of which is appended in the police report which *prima facie* shows the version of the victim herself stating that she was forced into the said acts.

5. In view of the clear dichotomy and inconsistencies present, I agree with the case made out by learned Advocate for Applicant.

6. Mr. Sharma, learned appointed Advocate on behalf of the Respondent No.2 has persuaded me to consider otherwise that after the investigation it has been clearly revealed that there was only one accused person who was present in the house and that would be none other than the present Applicant. If that be the case, then there has to be *prima facie* evidence at the threshold to consider such prosecution case, failing which this Court cannot come to such a conclusion. In that view, complicity of the Applicant and the theory propounded by the prosecution can undoubtedly be proved at trial, the Applicant has made out a case for grant of bail.

7. Considering the aforesaid, Applicant is directed to be released on bail subject to following conditions:-

(i) Applicant is directed to be immediately released from prison in connection with Crime No. 11 of 2025;

(ii) Applicant is directed to be released on bail on furnishing P.R. Bond of Rs. 15,000/- (Rs. Fifteen Thousand only) with one or two surety / sureties of the like amount;

(iii) Applicant shall report to the Investigating Officer at the concerned Police Station, once every month on the first

Monday 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 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.

8. 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 hereinabove in this order.

9. This Court appreciates the assistance rendered by Mr. Sharma, learned appointed Advocate through the legal aid. His 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 v. The State of Maharashtra & Anr.***[1] and the Schedule under Regulation 18(1) of the Maharashtra State Legal Services Authority Rules, 1998.

10. Bail Application is allowed and disposed of in the above terms.

H. H. SAWANT

[MILIND N. JADHAV, J.]

HARSHADA HANUMANT SAWANT

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Date: 2026.10.10 14:12:52 +0530

1 Judgement dated 25.09.2024 passed in Misc.Civil Application No.134 of 2024.