HARSHADA H. SAWANT
(P.A.)

# IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

## BAIL APPLICATION NO.3577 OF 2026

Pravin Maruti Bhosale .. Applicant

Versus

The State of Maharashtra and Anr. .. Respondents

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- Ms. Ankita A. Pawar, Advocate for Applicant.
- Mr. Sukanta A. Karmakar, APP for Respondent No.1.
- Mr. Viral Mukte, Advocate for Respondent No.2.

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CORAM : MILIND N. JADHAV, J.

DATE : OCTOBER 12, 2026

P.C.:

**1.** Heard Mr. Pawar, learned Advocate for Applicant; Mr. Karmakar, learned APP for Respondent No.1 and Mr. Mukte, learned 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.102 of 2026 registered with Yeola Police Station, Nashik for offences punishable under Sections 137(2), 65(1), 87 and 49 of the Bharatiya Nyaya Sanhita, 2023; and Sections 4, 8, 12 and 17 of the Protection of Children from Sexual Offences Act, 2012.

**3.** On 07.10.2026, after hearing learned Advocate for Applicant; learned APP for Respondent No.1 and learned Advocate for Respondent No.2, following order was passed:-

> *"**1.** I have heard Ms. Pawar, learned Advocate for Applicant; Mr. Karmakar, learned APP for Respondent No.1 – State and Mr. Mukte, learned appointed Advocate for Respondent No.2 – First Informant.*
>
> ***2.** The entire case turns on the statements of the victim, copies of which are appended from page No.55 of the Application onwards. The incident in question occurred between 09.03.2026 and 15.03.2026. There are probably multiple incidents. There are three accused persons in the matter. Only Accused No.1 is before me. Accused No.2 is the younger brother of Accused No.1 whereas Accused No.3 is the mother of Accused No.1. Accused No.2 is already enlarged on bail whereas Accused No.3 is protected by an interim order of this Court.*
>
> ***3.** Prima facie, upon perusing the statements of the victim recorded on 11.03.2026 through her father, on 15.03.2026 by the victim herself and on 24.03.2026, which is a supplementary statement, copies of which are appended to the Application, there appears to be a clear dichotomy in her version. There is also a complete absence of any allegation of violence, abuse or use of force whatsoever.*
>
> ***4.** However, one crucial statement of the victim recorded on 17.03.2026 is not before the Court. I therefore direct the learned Prosecutor to place before the Court on the next adjourned date the sealed band laphota, i.e., the sealed envelope containing the statement of the victim recorded under Section 183 of the Bharatiya Nagarik Suraksha Sanhita, 2023 for the perusal of the Court.*
>
> ***5.** Stand over to **12th October 2026 (First on Board)**. To be treated as '**Part-Heard**.*"

**4.** From the above, it is *prima facie* seen that the victims own supplementary statement confesses the fact that she was in a love relationship with the Applicant for more than 2 years and the fact that on several occasions, she had kept physical relationship with Applicant in her own house also and she on her own volition went with Applicant on his motorcycle and they stayed together at Pune without disclosing their identities until they were traced by the Police after 7 days. It is precisely with regard to this statement that Accused No.2 - brother of Applicant and Accused No.3 - mother of Applicant, had been granted

bail. The role of Applicant in the present case is that the victim befriended him and on her own volition without any attribute to violence, force or deceit accompanied him without informing her family between 09.03.2026 and 15.03.2026 when they stayed together during which the alleged multiple episodes between them occurred. The prosecution has not been in a position to place the victim's Section 183 statement before the Court as directed.

**5.** Though Mr. Karmakar would vehemently argue that the victim was below the age of majority and Applicant took advantage of her vulnerability. In that regard, I would like to draw attention to decision of this Court in the case of ***unil Mahadev Patil Vs. State of Maharashtra***[1] . It is true that a wrong doer is to be punished, guilty is to be convicted, however at the stage of bail, Court has to consider *prima facie* under what circumstances the offences are committed by the accused. The offence of rape can be distinguished on the basis of the intention of the accused. In the aforesaid judgment the learned Court summed up the ethos of relationship between young boys and girls aptly in paragraph No.11 of the said judgment which reads thus:-

> "***11.*** *Today teenagers are exposed to more sex related issues and lot of material is also available to them to know the sexual relationship between a man and a woman. Because of their impressionable age, girls and boys both may tend to get provoked and there can be a curious and very compelling demand of the body to get into such kind of relationship. Sexual urge differs from person to person and there cannot be any mathematical formula in respect of sexual behavioral pattern of teenagers, as biologically*

1 BA No.1036 of 2015 – Decided on 03.08.2015

> *whenever the child turns into puberty, the child starts understanding his or her sexual needs. The nature of response depends on the upbringing, peer pressure, how civilized the environment is etc. Sex requires proper physical and emotional preparation, as it results in many physical and emotional consequences. This is all considered as a sexual maturation. Therefore, some sects with view to regularize sexual behaviour of the community have acknowledged this biological factor and therefore, the early age marriages are performed in some religions or communities. Taking into consideration this social and biological factors, the law makers have considered the age of 15 as a age of consent when the marriage is performed. Taking into consideration this background, the trial Judge has to pass an order of bail in such cases."*

**6.** Attention in this regard is invited to the decision of High Court of Kerala in the case of ***Joy Vs. State of Kerela Represented through the Public Prosecutor***[2] in a similar case where age of prosecutrix as below 18 years and a similar argument was made. The relevant paragraph Nos.9 to 11 are reproduced below:-

> *"**9.** Mere delay in reporting the matter to the authorities concerned, especially sexual assault on a minor girl, is immaterial and it would not be fatal to the prosecution case. However, in the instant case, it is not the delay alone that is significant. The significant fact is that the complaint was given to the authorities concerned only two weeks after the mother received the lawyer notice from the petitioner claiming a huge amount as professional fees. This raises suspicion on the prosecution case against the petitioner. When the victim had disclosed the matter to her mother in July, 2018, one would have expected the mother to report the matter to the authorities concerned much earlier than 22.09.2018. The fact that she reported the matter only after receiving a lawyer notice from the petitioner assumes significance.*
>
> ***10.** This court is not oblivious to Section 29 of the Act which contains a legislative mandate that the court shall presume commission of the offences by the accused unless the contrary is proved. Section 29 of the Act states that where a person is prosecuted for committing or abetting or attempting to commit any offence under Sections 3,*

2 2019 SCC OnLine 783.

*5, 7 and 9 of the Act, the Special Court shall presume, that such person has committed or abetted or attempted to commit the offence, as the case may be, unless the contrary is proved. The court shall take into consideration the presumption under Section 29 of the Act while dealing with an application for bail filed by a person who is accused of the aforesaid offences under the Act (See State of Bihar v. Rajballav Prasad, (2017) 2 SCC 178 : AIR 2017 SC 630).*

***11.*** *However, the statutory presumption under Section 29 of the Act does not mean that the prosecution version has to be accepted as gospel truth in every case. The presumption does not mean that the court cannot take into consideration the special features of a particular case. Patent absurdities or inherent infirmities or improbabilities in the prosecution version may lead to an irresistible inference of falsehood in the prosecution case. The presumption would come into play only when the prosecution is able to bring on record facts that would form the foundation for the presumption. Otherwise, all that the prosecution would be required to do is to raise some allegations against the accused and to claim that the case projected by it is true. The courts must be on guard to see that the application of the presumption, without adverting to essential facts, shall not lead to any injustice. The presumption under Section 29 of the Act is not absolute. The statutory presumption would get activated or triggered only if the prosecution proves the essential basic facts. If the accused is able to create serious doubt on the veracity of the prosecution case or the accused brings on record materials which would render the prosecution version highly improbable, the presumption would get weakened. As held by the Apex Court in Siddharam*

> *Satlingappa Mhetre v. State of Maharashtra, (2011) 1 SCC 694 : AIR 2011 SC 312, frivolity in prosecution should always be considered and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of anticipatory bail. No inflexible guidelines or straitjacket formula can be provided for grant or refusal of anticipatory bail. It should necessarily depend on facts and circumstances of each case in consonance with the legislative intention."*

**7.** The age of the Applicant is 31 years, whereas the age of the victim is 16 years. In view of the above, notwithstanding the fact that the age of the victim is below 18 years, however the material which is investigated by the prosecution *prima facie* shows that the victim was fully aware about consequences of her actions and therefore, I am inclined to accept the case of the Applicant for grant of bail.

**8.** Considering the aforesaid, Applicant is released on bail subject to following conditions:-

**(i)** Applicant is directed to be immediately released from prison in connection with Crime No. 102 of 2026;

**(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.

**9.** 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.

**10.** This Court appreciates the assistance rendered by Mr. Mukte, 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.***[3] and the Schedule under Regulation 18(1) of the Maharashtra State Legal Services Authority Rules, 1998.

**11.** 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: 2026.10.12 20:49:59 +0530

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