

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

**BAIL APPLICATION NO. 5448 OF 2024**

Abhisekh Shivaji Yewale

...Applicant

*Versus*

State of Maharashtra & Anr.

...Respondents

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**Mr. R. S. Dubey**, *for the Applicant.*

**Ms. Gauri S. Rao**, *APP for the Respondent-State.*

**Ms. Ashwini Achari**, *for the Respondent No.2.*

**Mr. Niwas Garale**, *PSI attached to Navghar Police Station,  
present.*

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**CORAM     DR. NEELA GOKHALE, J.**

**DATED:     30<sup>th</sup> JANUARY 2026**

**PC:-**

1. By this Application, the Applicant seeks his enlargement on bail in connection with FIR No. 0690 of 2023 dated 23<sup>rd</sup> November 2023 registered with the Navghar Police Station, Mira-Bhayander, Vasai-Virar, Thane for the offences punishable under Sections 376(2)(n) of the Indian Penal Code, 1860 ('IPC') and under Sections 4,8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

2. The case of the prosecution, in brief, is that, the Victim, who was aged about 16 and ½ years at the time of incident was in relationship with the present Applicant. She went to meet the Applicant on 18<sup>th</sup> November 2023 at around 9.00 p.m. The Applicant called the Victim to Dadar. From there, they chatted for some time and thereafter he took her to his house. When she entered the house, she met the Applicant's wife. As the Applicant had informed the Victim that he had told his wife that she was his friend's sister, the Victim also represented herself accordingly. The Applicant further told his wife that the First Informant had come to stay with them as she had quarrelled with her family members. Thereafter, in the middle of night, the Applicant came to mezzanine floor where the Victim was sleeping and they had physical relations. The First Informant has stated in the FIR that the said physical relations were against her wishes. She has further stated that from 18<sup>th</sup> November 2023 to 21<sup>st</sup> November 2023, the Applicant again established physical relations with her under the pretext of marriage. Thereafter,

she returned home and disclosed the incident to her mother, pursuant to which the FIR came to be lodged. Accordingly, the Applicant was arrested on 23<sup>rd</sup> November .

3. The Applicant filed an application seeking bail before the Additional Sessions Judge & Special Judge (POCSO), Thane. However, by order dated 9<sup>th</sup> September 2024, his bail application came to be rejected. Hence, the Applicant is before this Court for the reliefs as prayed.

4. At the very outset, Mr. Dubey, learned counsel appearing for the Applicant, submitted that the mother of the First Informant has lodged multiple FIRs against different individuals alleging similar offences. He points to the 3 FIRs filed by the First Informant's mother against different individuals pertaining to similar offence. He further submits that the trial has commenced and the First Informant's mother, who is a prosecution witness, has failed to appear before the Trial Court to record her evidence. He submits that the Applicant has suffered incarceration for 2 and ½ years

without any conclusion of trial. In these circumstances, the Applicant be enlarged on bail.

5. On the other hand, Ms. Gauri Rao, learned APP representing the State in the matter, on instructions of the Investigating Officer, states that the Victim is presently housed in a Children Home namely, 'You Can Free Us' at Thane and is under its protection, care and custody. She further submits that the First Informant's mother was in jail for some other offence and only recently, she has been released. However, the Investigating Officer is unable to trace her to secure her presence as a witness before the Trial Court. She however, leaves to the Court to pass appropriate orders.

6. Ms. Ashwini Achari, learned counsel appointed to represent Respondent No. 2, supports the case of the prosecution and submitted that since the Victim was a minor at the relevant time, the offence alleged is one of statutory rape and, therefore, the bail application deserves to be rejected.

7. Heard learned counsel appearing for the respective parties and perused the record with their assistance.

8. Admittedly, three FIRs have been lodged by the First Informant's mother against different individuals alleging similar offences. *Prima facie*, the conduct of the First Informant's mother raises concerns, particularly in view of the multiple complaints filed by her against different individuals pertaining to similar offence. In any event, the Applicant has remained incarcerated for almost 2½ years and the First Informant's mother, who is a material prosecution witness, has failed to appear before the Trial Court to depose. Further, since the Victim is presently in the care and custody of a Children's Home, the possibility of the Applicant intimidating the Victim or tampering with the evidence appears remote.

9. In these circumstances, I am inclined to enlarge the Applicant on bail. It is accordingly ordered as under:-

**ORDER**

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date unless exempted by the orders of the Trial Court concerned;
- iii) If the Applicant has not deposited his passport, if any, the Applicant shall deposit the same with the Police Station concerned;
- iv) The Applicant shall not leave India, without the permission of the Trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vi) The Applicant shall inform his latest place of residence and contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the Police Station concerned;

vii) The Applicant to co-operate with the conduct of the trial;

viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

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

**11.** It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

**(DR. NEELA GOKHALE, J)**

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