

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 649 OF 2025**

Devram Kalu Bhoi ...Applicant
Versus
State Of Maharashtra _____...Respondent

Ms. Nasreen Ayubi, *for the Applicant.*

Ms. Anuja S. Gotad, *APP for the State-Respondent.*

Mr. Atharva S. Jagtap, *for Respondent No.2 (appointed through legal aid).*

CORAM DR. NEELA GOKHALE, J.
DATED: 14th JANUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 98 of 2020 dated 8th October 2020 registered with the Mokhada Police Station, Palghar for the offences punishable under Sections 376-E, 5(j)(2), 5(l) and 6 of the Protection of Children from Sexual Offences Act, 2012 (for short, the 'POCSO Act').

2. The victim is stated to be 12 years of age at the time of the incident, while the Applicant is stated to be 26 years of age.

3. The facts of the case, in brief, are that the victim had gone to her friend's house to comb her hair. The Applicant is alleged to have entered the house and sexually assaulted her. One neighbor, namely Krishna Walvi, heard her shouts and pleas for help, went into the said room and saw the Applicant in a supine position on top of the victim. Since the Applicant realized that said Krishna Walvi was in the room, he ran away from the said house. Krishna Walvi took the victim to her own house. A complaint was filed by the victim's mother and pursuant to which the FIR was registered and the Applicant was arrested on 9th October 2020.

4. The Applicant made an application before the Additional Sessions Judge-7, Thane. However, by order dated 4th February 2021, the said application was rejected. Thereafter, he made successive bail applications before the Trial Court, but the same were rejected and lastly, his application was rejected by the Additional Sessions Judge, Bhiwandi on 7th

June 2024. Hence, the Applicant is before this Court seeking the reliefs as prayed.

5. Ms. Nasreen Ayubi, learned Advocate appointed to represent the Applicant, has brought to my attention the statement given by the victim's mother in the FIR, the statement recorded under Section 164 of the Cr.P.C. and the statement of other witnesses, namely the friend of the victim as well as Krushna Walvi, who is alleged to have saved the victim from the incident. She submits that the contents of all the statements are distinct from each other and there is variance in all these statements. She submits that the Applicant is arrested on 9th October 2020 and has suffered as many as 6 years of incarceration. Charges have been framed very recently and the trial is not likely to conclude in the near future. She submits that there are no antecedents against the Applicant. Hence, she prays that the Applicant be released on bail.

6. Ms. Anuja Gotad, learned APP, submits that the offence is serious, since it is under the POCSO Act, the victim was 12 years of age at the time of the incident, while the Applicant was of 26 years of age and the difference between them is sufficient to demonstrate undue duress and dominant position of the Applicant. She thus, submits that the Bail Application be rejected.

7. Mr. Atharva Jagtap, learned Counsel for Respondent No.2 contests the Bail Application and supports the contentions of Ms. Gotad.

8. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

9. I have carefully perused the statement given by the mother as narrated to her by said Krishna and her own daughter, who is the victim; the statement of the victim recorded under Section 164 of the Cr.P.C., the statement of her

friend, namely Gauri Ganesh Wagh and the statement of the said Krishan Walvi. There is significant variance in all these four statements. In any case, the Applicant has suffered incarceration for as many as 6 years and without the commencement of the trial. Charges are framed very recently and it is not likely that the trial will conclude in the near foreseeable future.

10. In these circumstances, I am inclined to enlarge the Applicant on bail on the stringent condition and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.30,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial,

save and except if the Applicant is exempted from appearance by orders of the Trial Court.

iii) The Applicant will not enter the territorial jurisdiction of Mokhada Police Station, Palghar till the conclusion of the trial.

iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;

v) The Applicant shall not leave India, without permission of the trial Court;

vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;

vii) The Applicant shall inform his latest place of residence and mobile 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 concerned Police Station;

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

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

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

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

(Dr. Neela Gokhale, J)