

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO.2359 OF 2025

Dilipkumar Laxminarayan Yadav	...Applicant
<i>Versus</i>	
State of Maharashtra & Anr.	...Respondents

Mr. Pawan Mali, for the Applicant.
Ms. S. D. Shinde, APP for the Respondent-State.
Ms. Samiksha Pawar (Appointed), for the Respondent No.2.
Mr. Shyam Salunkhe, PSI attached to Pelhar Police Station, present.

CORAM: R. M. JOSHI, J.
DATED: 6th APRIL, 2026.

PC:-

1. The Applicant seeks bail in connection with Crime No.0951 of 2024 dated 6th December 2024, registered with Pelhar Police Station, Mira-Bhayandar, Vasai-Virar, for offences punishable under Sections 65(1), 64(2)(m), 351(2) of the Bharatiya Nyaya Sanhita, 2023 ('BNS'); Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') and Sections 67 and 67B of the Information Technology Act, 2000.

2. In short, it is the case of the prosecution that the Victim aged about 16 years and 6 months, lodged report against the Applicant that he subjected her to forcible sexual intercourse on four occasions. It started in March 2024 and last such incident is said to

have occurred on 6th July 2024. The Report came to be lodged on 6th December 2024. During the course of the investigation, the statement of the Victim was recorded under Section 164 of the Code of Criminal Procedure, 1973 ('Cr.P.C.'). She was sent for medical examination. The Applicant came to be arrested on 20th December 2024. On conclusion of investigation, the charge-sheet is filed.

3. Learned counsel for the Applicant submits that there are inconsistencies in the statements of the Victim recorded under Sections 161 and 164 of the Cr. P. C. so also, the history given to the Medical Officer. It is his submission that in view of the said inconsistencies, the corroborative material needs to be looked into. By referring to the medical certificate, he argues that there is no medical evidence to indicate any forcible sexual intercourse being done by the Applicant with the Victim. It is his further submission that there is an inordinate delay in lodging the Report and in the context of the N.C. dated 5th November 2024 being lodged by the wife of the Applicant against the family of the Victim, creates a ground of Applicant's false implication. He further argues that there is no conclusive evidence to indicate that the Victim is a minor. In this regard, it is his submission that evidence in the form of school leaving certificate is not issued by the first attended school of the Victim. By referring to the provisions of Section 96 of the Juvenile Justice Care & Protection Act, 2015 with Rule 12 framed thereunder, such evidence of the first attended school can be considered. It is his submission that the Victim was not even referred to ossification test in order to determine her age. It is his submission that the Applicant has not been produced before the

Court even once, after filing of the charge-sheet over a period of 1 and half years. The Applicant has no criminal history behind him. Having regard to all these facts, it is his submission that the Applicant cannot be kept behind the bars by way of pretrial sentence.

4. The learned APP and learned counsel for the Respondent No.2 oppose the Application, firstly, on the ground that the offence against the child is punishable with imprisonment of 20 years. It is further argued that the inconsistencies, which are minor in nature in the statements of the Victim recorded during different stages of investigation, cannot become ground for grant of bail to the Applicant. Insofar as the threats given to the Victim, it is contended that the Applicant had blackmailed the Victim by showing her video of the acts committed by him with her. It is submitted that having regard to the serious nature of the offence, the Applicant is not entitled for bail. Learned counsel for the Respondent No.2 apprehends that in case, the Applicant is enlarged on bail, he would pressurize the Victim as both are residents of the same locality. Learned counsel for the Applicant in response to the said submission, on instructions, makes a statement that the Applicant will not enter jurisdiction of Pelhar Police Station till conclusion of trial.

5. *Prima-facie*, perusal of the record indicates that there is delay in lodging of the Report. The delay by itself cannot become ground for discarding the case of the prosecution. However, considering apparent inconsistencies in the statements of the Victim, it cannot be ignored. As far as the allegations against the

Applicant are concerned, the Victim claims that sexual relations were established with her on the basis of video made by the Applicant of their first sexual intercourse. In this regard, however, at this stage, there is no material on record to support the same. Though it is sought to be argued on behalf of the prosecution that the mobile phone of the Accused is sent to the Forensic Science Laboratory ('FSL'), the charge-sheet does not indicate that the mobile phone of the Applicant was seized by the Investigating Officer wherein any video of such nature was found. Suffice it to say that, at-least at this stage, there is no evidence to indicate existence of any such video.

6. All these aspects became relevant in view of the arguments of learned counsel for the Applicant that there is no conclusive proof of the age of the Victim. The charge-sheet shows school leaving certificate issued by Shri Yadavesh Vikas Vidyalaya, Nallasopara, in which the Victim was studying. The statement of the Victim in the First Information Report however, indicates that she joined the said school in 6th standard. It is thus, *prima-facie* becomes clear that the school leaving certificate has not been issued by the school first attended by the Victim. This Court therefore, finds substance in the contention of the learned counsel for the Applicant that this evidence may not be acceptable as proof of the age of the Victim in view of Section 96 of the Juvenile Justice Care & Protection Act, 2015 with Rule 12 framed thereunder. Undisputedly, the Victim was not referred for an ossification test in order to determine her age at the relevant time.

7. Finally, it needs to be noted that the First Information Report came to be lodged only after lodging of the complaint by the wife

of the Applicant against the family of the Victim. Thus, there is no reason to discard the contention of the learned counsel for the Applicant that this could be possibly a case of false implication. The Applicant has not been produced before the Court even once after filing of the charge-sheet over a period of 1 and half years. Needless to say, that in such circumstances, the trial is not likely to commence and get over within a reasonable period of time. In the circumstances, the Applicant deserves to be enlarged on bail. Hence, the following order:-

ORDER

- (i) The Bail Application stands allowed in connection with Crime No.0951 of 2024 dated 6th December 2024, registered with Pelhar Police Station, Mira-Bhayandar, Vasai-Virar;
- (ii) The Applicant be released on bail on furnishing P. R. Bond of Rs.15,000/- with one local surety in the like amount to the satisfaction of the Trial Court;
- (iii) The Applicant not to contact the Victim or any witness in this Crime in any manner whatsoever;
- (iv) As undertaken, the Applicant shall not enter jurisdiction of Pelhar Police Station, Mira-Bhayandar, Vasai-Virar till conclusion of trial.

8. The Bail Application stands disposed of.

(R. M. JOSHI, J.)