

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

BAIL APPLICATION NO.2496 OF 2025

Istiyak Jumrati Ansari Applicant
Vs.
State of Maharashtra & Anr. Respondents

Mr. Priyeshraj Singh with Ms. Sneha Mishra for the Applicant.
Mr. Mayur Sonavane, APP for Respondent No.1-State.
Ms. Ashwini Achari, Advocate appointed through Legal Aid for Respondent No.2.
Mr. Lahange, PSI, Jawahar police station present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 9th JUNE, 2026

P.C. :-

- 1) The Applicant is seeking his release on bail in Special Case No.414 of 2024 arising out of FIR bearing C.R. No.I-264 of 2024 for the offence under Sections 64, 65, 65(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act").
- 2) Heard Mr.Singh, the learned Counsel for the Applicant, Mr.Sonavane, learned APP for Respondent No.1-State and Ms.Achari, the learned Advocate appointed for Respondent No.2.
- 3) On 28th August 2024, the father of the victim girl aged 5 years, filed a report wherein it has been stated that an unknown person subjected the victim to penetrative sexual assault. Based on that report, police registered the said FIR and arrested the Applicant. During investigation the police held the Test Identification Parade, in which the victim identified the

Applicant as same person, who had committed the sexual assault against her. After completion of the investigation, the charge-sheet came to be filed. The trial Court rejected the Bail Application of the Applicant.

4) Mr.Singh, the learned Counsel for the Applicant submitted that in the cross examination, the father of the victim has admitted that the offender was of short height and fair complexion. However, as per description of the Applicant recorded in the arrest form, the Applicant is of dark complexion. After identification of the Applicant in the Test Identification parade, the victim has not stated that the Applicant is same person, who had committed sexual assault against her, therefore, it cannot be accepted that identity of the Applicant was established during the course of investigation and before the trial Court, by the witnesses concerned. Thus, the circumstances indicates that the Applicant is innocent and, therefore, he is entitled for bail.

5) Mr.Sonavane, the learned APP for the Respondent-State and Ms.Achari, the learned appointed Advocate for Respondent No.2 submitted that the FIR categorically mentions about the sexual assault committed by the accused. After arrest of the Applicant, he has been identified in Test Identification parade by the victim. The allegations in the FIR are supported by the medical report and the deposition of the victim. Therefore, there is a *prima facie* case against the Applicant.

6) I have considered the rival submissions and find force in the submissions made by Mr.Sonavane, the learned APP for Respondent No.1-State and Ms.Achari, the learned appointed Advocate for Respondent No.2. The record *prima facie* shows that the victim was subjected to penetrative sexual assault. Said narration is supported with the medical evidence as there were abrasions at the genital of the victim. The Applicant has been identified in Test Identification parade by the victim. The offence is serious.

The examination of the prosecution witnesses is in progress. The Applicant is resident of Uttar Pradesh and therefore, he is likely to abscond.

7) In view thereof, no case is made out for grant of bail. As a result, the Application is liable to be rejected and is rejected, accordingly.

8) It is clarified that the observations made hereinabove may not be construed as an expression of opinion on the guilt or otherwise of the Applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

(SHYAM C. CHANDAK, J.)