

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 2692 OF 2025**

Akhilesh Hanumant Gautam ...Applicant

Versus

The State Of Maharashtra And Anr. ...Respondents

Mr. Maaz Ansari, for the Applicant.

Mr. Mayur Sonavane, APP for the State-Respondent No.1.

Ms. Komal Sinha, for Respondent No.2.

PSI – Bajrang Desai, Samtanagar Police Station, is present.

CORAM DR. NEELA GOKHALE, J.

DATED: 16th FEBRUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with FIR No. 440 of 2017 dated 13th September 2017 registered with Samata Nagar Police Station for the offences punishable under Sections 363, 366 and 376 of the Indian Penal Code, 1860 ('IPC' and Section 4 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act').

2. The facts of the case, in brief, are that the Applicant and the victim were in a consensual relationship. During their

consensual relationship, the Applicant and the victim had also gone to Mumbadevi Temple and had exchange garlands. It is also alleged that the Applicant had put a Mangalsutra in her neck. They had decided not to inform their respective parents. Hence, they returned and the victim came to her house and started residing with her parents. Thereafter, in June 2017, she went to her native place in Bihar with her parents and on 26th May 2017, her parents got her married to one Mantunkumar Chalitar Mahto in Bihar. She was compelled to reside with her new husband. After few days, she returned to her maternal home in Mumbai and informed her parents that she did not like her new husband and did not want to go back to him. She again resumed her relationship with the present Applicant. On 10th September 2017, it is alleged that the Applicant convinced the victim that they should run away to Varanasi. At first, the victim was not inclined to run away with him and resisted him. However, it is alleged that the Applicant convinced her to run away with him by telling her that if she did not do so, her parents would send her to the house of her

new husband. Thus, on 12th September 2017, the Applicant and the victim went to Varanasi. She stayed with the Applicant's parents for a few days but, on 24th September 2017, her parents and brother came to the house of the Applicant and took her back. Thereafter, they made a police complaint against the Applicant, pursuant to which the FIR was registered and the Applicant was arrested on 26th September 2017.

3. The Applicant made an application seeking bail before the Special Court under the POCSO Act, Borivali Division, Dindoshi. However, by order dated 14th June 2020, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Mayur Sonavane, learned APP and Ms. Komal Sinha, learned advocate appointed to represent Respondent No.2, state that the trial has commenced and the first witness i.e. the mother of the victim, is already examined and her cross-examination is ongoing.

5. Mr. Maaz Ansari, learned advocate, appointed from Legal Aid to represent the Applicant, submits that the Applicant has suffered as many as nine years of incarceration. The victim has yet not been examined as a witness and is not answering to the summons issued by the Trial Court. He submits that the relationship was totally consensual and that the Applicant has not committed any offence, least of all the offences as alleged by the prosecution. Hence, Mr. Ansari submits that the Applicant be released on bail.

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

7. I have also carefully perused the statement of the victim recorded by the Magistrate under Section 164 of the Cr.P.C. She has clearly stated in the statement that she had accompanied the Applicant willingly to get married in the Mumbadevi Temple. After her marriage to the new person in Bihar was solemnized by her parents, she left his house,

returned to Mumbai and re-initiated her relationship with the present Applicant. She has also stated that she willingly went to Varanasi along with the Applicant. Considering that the Applicant himself was aged only 25 years and the victim was 17 years of age, although the rigors of POCSO Act apply, from the statement of the victim recorded under Section 164 of the Cr.P.C. and the fact that she has refused to attend the Trial Court to record her evidence, it *prima facie* appears that it was the parents of the victim, who initiated the complaint and forced her to marry another person in Bihar.

8. Ms. Sinha also states that she met the mother of the victim, who is the First Informant/Complainant. She had repeatedly requested her mother to share the telephone number and the contact detail of the victim. However, the Complainant has refused to part with the same. Hence, Ms. Sinha is unable to contact the victim herself. Notwithstanding that the victim was 17 years of age at the time of the said offence, it appears that both the Applicant and the victim were in a consensual relationship in their adolescence. The

Applicant has suffered incarceration for about nine years without the conclusion of the trial. In these circumstances, I am inclined to enlarge the Applicant on bail and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.5,000/- 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) If the Applicant holds a passport, he shall deposit the same with the Police Station concerned;
- iv) The Applicant shall not leave India, without 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 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;

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

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

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

10. 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.

11. At this stage, Mr. Ansari informs me that he has learned from the roznama of the Sessions Court that another bail application is pending before the Sessions Court. He, on behalf of the Applicant, undertakes to withdraw the same by informing the counsel appearing before the Trial Court.

(Dr. Neela Gokhale, J)