

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

BAIL APPLICATION NO.2765 OF 2025

Riyaz Raaj Mohammed Ahmed Applicant
Vs.
The State of Maharashtra & Anr. Respondents

Mr. Abad Ponda, Senior Advocate with Sonal Parab with Som Singh i/b
Rajeev Sawant and Associates for the Applicant.
Ms. S. K. Gajare, APP for Respondent No.1-State.
Ms. Komal Sinha, Advocate appointed for Respondent No.2.
Mr. Prakash Sonawane, PSI, Powai police station present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 10th JUNE, 2026

P.C. :-

- 1) Present Application seeks release of the Applicant on bail in connection with C. R. No.738 of 2024 registered with Powai police station under Sections 376(1) of the Indian Penal Code ("I.P.C.") read with Section 3(a), 4, 8, 11(5) and 12 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO Act")
- 2) Heard Mr.Ponda, learned Senior Advocate for the Applicant, Ms.Gajare, the learned APP for Respondent No.1-State and Ms. Sinha, the learned Advocate appointed for Respondent No.2.
- 3) The prosecution case is that in April 2024, in a hotel near Powai Garden, the Applicant misbehaved with the victim girl then aged 16 years and 7 months, took her objectionable photo and committed forcible intercourse with her. Further, the Applicant threatened the victim that he will show her photograph to her father. Thereafter, the victim had no

menstrual period for four months. Therefore, her parents took her to Trauma Care Centre, where, doctor examined her and diagnosed that she was four months pregnant. The victim then filed a report. Consequently, aforesaid crime came to be registered and the Applicant was arrested. On completion of investigation, charge-sheet came to be filed. The trial Court refused to release the Applicant on bail.

4) Mr.Ponda, the learned Senior Counsel produced the DNA report which excluded that the Applicant to be the biological father of the fetus of the victim. This proves that the Applicant is innocent. The Applicant is unmarried and doing labour work. The incarceration is causing great hardship to the Applicant. Therefore, he may be released on bail.

5) In reply, Ms.Gajare, the learned APP for Respondent No.1-State and Mr. Sinha, learned Advocate appointed for Respondent No.2 submitted that In the report of the victim and her statement under Section 164 Cr.p.C., the victim has clearly stated that the Applicant had subjected her to forcible sexual intercourse. Thereafter, he threatened her that he will show her photograph to her father. As such, there is a *prima facie* case against the Applicant. They submitted that the DNA report is not a conclusive proof. As such, the Applicant is not entitled for bail.

6) It is a matter of record that until revelation of the pregnancy, the victim did not complain to anyone about the alleged rape committed on her by the Applicant. No photograph is seized from the Applicant on the strength of which he had allegedly threatened the victim. Although the DNA report has excluded the Applicant to be the biological father of the fetus, no further investigation is carried out by the Investigating Officer to ascertain as to whether any other person is involved in the crime. Considering the material on record, the alleged sexual intercourse appears to be consensual.

7) Mr. Ponda, the learned Senior counsel produced an Order dated 24/08/2020 in Criminal Appeal No.537 of 2020(Arising out of SLP (Cri.) No.2844 of 2020). Therein, the DNA report did not show that the Applicant was father of the child born. Hence, bail was granted to the accused by the Hon'ble Supreme Court.

8) In view thereof, the Applicant deserves to be enlarged on bail. Hence, the following Order is passed :-

- (i) Bail Application is allowed.
- (ii) The Applicant-Riyaz Raaj Mohammed Ahmed shall be released on bail in connection with FIR No.738 of 2024 registered with Powai police station, Mumbai under Sections 376(1) of the I.P.C. read with Section 3(a), 4, 8, 11(5) and 12 of the POCSO Act., on his furnishing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.
- (iii) The Applicant shall mark his attendance at Powai police station on the 1st day of each calendar month between 12.00 noon to 4.00 pm, till the conclusion of the trial.
- (iv) The Applicant shall regularly attend before the proceedings before the jurisdictional Court unless exempted by the said Court, for the reasons to be recorded in writing.
- (v) The Applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witness to prevent them from deposing against him.
- (vi) On being released from jail, the Applicant shall furnish his contact number and residential address to the Investigation

Officer and shall keep him updated, in case there is any change.

- (vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination to the entitlement for bail and they 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.)