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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3232 OF 2025

Suraj Mohan Prasad	...Applicant
V/s.	
State of Maharashtra & Anr.	..Respondents

WITH
CRIMINAL BAIL APPLICATION NO.2783 OF 2025

Chandahas Bhim Prasad	...Applicant
V/s.	
State of Maharashtra & Anr.	...Respondents

Mr.Gaurav Parkar for the Applicant in BA No.3232 of 2025.

Mr.Rahman Bashir Khan for the Applicant in BA No.2783 of 2025.

Mr.A.S. Gawai, APP for the State – Respondent in both the B.As.

Ms.Manisha Deokar for Respondent No.2 in both the B.As.

Ms.Prajakta Patil, PSI attached to Palghar Police Station is present in Court.

CORAM : R.M. JOSHI, J.
DATE OF RESERVE : 8TH APRIL, 2026.
DATE OF PRONOUNCEMENT : 16TH APRIL, 2026.

P.C:-

1. Since both the applications arise out of the same

crime, by consent of both sides heard and decided together.

2. This application is filed for regular bail in connection with Crime No.89 of 2025 registered with Palghar Police Station for the offence punishable under Section 64(1) of Bhartiya Nyaya Sanhita, 2023 (BNS).

3. Prosecutrix lodged report stating that on 15/03/2025, around 12.30 pm, she was sitting in her store when, the applicants came in her house for drinking water. Applicants were her acquaintances as they are residents of her sister Mina's village from Gorakhpur, Uttar Pradesh. She provided the water as they were belonging from her sister's village. While she was going to put the glass, Chandrahas came near her and started appreciating her. At that time, she told him that "she doesn't want to talk and asked both of them to leave the house immediately forthwith stating that and she is not that kind of woman. Suraj caught both of her hands and Chandrahas lifted her saree from behind and started forcible sex with her. At that time, she tried to scream, but Suraj pressed her mouth and she couldn't scream. Due to sexual intercourse commenced by

Chandrahas there was bleeding and pain to her. Both thereafter left her house. She was scared and stayed home. On 16/03/2025 there was bleeding and pain and therefore she came to Hospital and her treatment was going on. She had lodged the complaint against Chandrahas and Suraj.

4. The prosecutrix was sent to medical examination and medical report was obtained and included in the investigation papers. Her supplementary statement was recorded on 19/03/2025, whereby she claimed that the incident has occurred on 14/03/2025 and by mistake disclosed the same to be 15/03/2025. After conclusion of investigation, chargesheet came to be filed. Learned Trial Court rejected the applications for bail filed by the applicants. Hence these applications.

5. Learned counsel for the applicants submit that this is a case of false implication of the applicants in the crime in view of the fact that Chandrahas decided to marry the sister of Suraj and hence the prosecutrix has lodged false report against both of them. It is his submission that material evidence on record clearly indicates that the prosecutrix was in contact with the

applicant - Chandrahas and even after the alleged occurrence of incident, she contacted him and also sent hasty message. It is his submission that a person who is subjected to forcible sexual intercourse would not contact perpetrator i.e. one of the applicants. It is his further submission that there are material inconsistencies in her statement with regard to the day on which the incident has occurred. According to him when the prosecutrix realized that the applicants were not present on the spot on the alleged date of incident, she conveniently changed the date of incident. It is submitted that though the prosecutrix is relying upon the medical evidence, pertinently the Medical Officer has not given any opinion with regard to the possibility of the alleged injuries caused to the prosecutrix on account of forcible sexual intercourse. It is submitted that the conduct of the prosecutrix of recording consent for grant of bail before the Sessions Court and conditional consent before this Court i.e. subject to the applicant - Chandrahas marrying her, she has no objection to the grant of bail, indicates that there is possibility of there being consensual relationship between the applicant -

Chandrahas and the prosecutrix and since he is marrying to the sister of Suraj, false case has been filed against them.

6. Learned APP and learned counsel for Respondent No.2 opposed the application. Learned counsel for Respondent No.2 however, on instructions from the prosecutrix, who was present in the Court, makes statement that she has no objection to grant of bail to the applicant - Chandrahas provided he marries her. On merits, they opposed the application by contending that the allegations against the applicants are serious in nature and are supported by medical evidence. With regard to the change in the date of occurrence of the incident, it is contended that it is possible that by mistake the different date of incident is given initially which is corrected at later point of time. It is submitted that in the facts of the case, the applicants are not entitled for bail.

7. The prosecutrix recorded no objection for grant of bail to the applicants before the Sessions Court. Similarly, before this Court, submission is made that the applicant - if Chandrahas is ready to marry her, she has no objection for grant of bail to him.

Thus the statements of the prosecutrix creates possibility of false implication of the applicants as sought to be contended by the learned counsel for the applicants. It is not the matter of coincidence to be ignored that the co-accused is the brother of a girl with whom the applicant - Chandraha's marriage came to be fixed. The record indicates that the prosecutrix was in contact with the applicant - Chandrahas and most importantly even after occurrence of the alleged incident, she continued to stay in contact with him. When this Court has raised specific query to learned counsel for Respondent No.2 as to what is the reason for which she had contacted the applicant - Chandrahas even after the occurrence of the incident, it was answered that she wanted the applicant - Chandrahas to take her to hospital. This Court finds substance in the contention of the learned counsel for the applicants that no victim would seek help from the perpetrator of crime of sexual assault to take her to hospital. *Prima-facie* therefore, the only inference which could be drawn is that the applicant – Chandrahas and the prosecutrix were close to each other and that the possibility of consensual relationship between

them is not ruled out. Consequently, the possibility to the false implication in view of marriage of the applicant - Chandrahas being fixing with the sister of the co-accused exists.

8. Apart from the above facts, there are material inconsistencies in the statement of the prosecutrix as to the date on which the incident in question has occurred. During course of hearing, when this Court posed the query to the learned APP as to whether it is correct that the applicants have alibi on 15/03/2025, on instructions, learned APP confirmed the said fact. In the light of this fact, a doubt is created as to whether the change of date of occurrence of the incident is innocuous / *bona-fide* or otherwise. Moreover, the Medical Officer has not given any opinion to indicate the possibility of injuries caused to the prosecutrix on account of forcible sexual intercourse is not ruled out. Absence of such opinion also creates doubt about the medical condition of the prosecutrix, on account of anal intercourse or for other reason. This however could be decided only during trial. Suffice it to say that prima-facie doubt is created by Applicants to the story of prosecution.

9. In the aforestated facts, the applicants after conclusion of the investigation and after filing of the chargesheet, cannot be kept in jail by way of pre-trial sentence. The apprehension of the prosecutrix of pressuring her can be taken care by imposing appropriate conditions. The applicants have no criminal history and they are not likely to flee from justice.

10. Hence the order :-

ORDER :

- a). The Applications stand allowed.
- b). The Applicants be enlarged on bail in connection with Crime No.89 of 2025 registered with Palghar Police Station on furnishing PR bond of Rs.15,000/- each with one surety in the like amount to the satisfaction of the Trial Court.
- c). The Applicants not to enter the jurisdiction of Palghar Police Station, except for attending the dates of hearing before the Trial Court.
- d). The Applicants to attend the Trial Court on each dates of hearing unless exempted by the Trial Court.

e). The Applicants not to contact any witness directly or indirectly and not to interfere into the evidence of the prosecution in any manner whatsoever.

f) Any breach of the above conditions would result into cancellation of bail.

11. It is clarified that above observations are *prima-facie* in nature and would not bind the Trial Court / parties during trial.

(R.M. JOSHI, J.)