

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3042 OF 2025

Imtiyaz Ahmad Bakshi	...Applicant
<i>Versus</i>	
State Of Maharashtra and Anr.	...Respondents

Ms. Sana Raees Khan a/w Palak Kashiwal, for the Applicant.
Mr. A.R. Kapadnis, “B” Panel Counsel for the Respondent - State.
Mr. Saurav Tadvi, for the original complainant.
API – Swapnil Kadam, Kashmirira Police Station, present.

CORAM: R. M. JOSHI, J.

DATED: 25th MARCH, 2026.

PC:-

1. The Applicant seeks his enlargement on bail in connection with CR No.505 of 2024 dated 7th October, 2024, registered with the Kashmirira Police Station, Thane, for the offence punishable under Sections 64 and 127(2)(k) of the Bharatiya Nyaya Sanhita, 2023.

2. It is the case of the prosecution that the victim is mentally challenged girl. The mother of the victim lodged a report to the police station with an allegation that the accused/Applicant dragged the victim into the house and committed forceful sexual intercourse. The offence came to be registered and the Applicant came to be arrested in respect of the said crime. During the course of investigation, the victim was sent for medical examination so also her statement was recorded under Section 183 of the BNSS. On conclusion of the trial charge-sheet came to be filed.

3. Learned counsel for the Applicant submits that the Applicant is arrested on 7th October, 2024. She submits that *prima facie* evidence on record indicates inconsistencies in the statement of the victim recorded on different stages of the investigation. To support her submission, she drew attention of the Court to the statement of the victim recorded before the counsellor/psychiatrist and the medical officer so also statement recorded under Section 180 of BNSS. She drew attention of the Court to the statement recorded before the Magistrate to argue that answer to question No.7 recorded was not made by the victim but by the witness, on whose instance the information was given to the mother of the victim, who in turn filed the FIR. It is her submission that having regard to the inconsistencies coupled with the fact that the CCTV footage placed on record does not indicate entry of the victim in the house of the accused. She further argued that there is nothing on record to show that the accused forced the victim to his house and there is reason to believe that the CCTV footage is doctored one.

4. Learned counsel for the Respondent No.2, on instructions, records no objection for grant of bail. He however seeks stringent conditions to be imposed against the Applicant. He submits that in order to ensure that the victim is not pressurized, the Applicant be prevented from entering the jurisdiction of the concerned police station till conclusion of trial. In response, learned counsel for the Applicant, on instructions, makes a statement that the Applicant will not enter the jurisdiction of the concerned police station till conclusion of the trial.

5. Learned APP opposed the application by pointing out serious nature of crime. He submits that there is no case made out by the Applicant with regard to the false involvement in this crime. He argued that the Court has to consider the fact that the victim is a special child and hence for communication she requires help of other person. In this backdrop, it is his contention that the statement recorded before the Magistrate with the help of the witness cannot be faulted with. It is his further submission that there is consistent statement of the victim before the police and which is duly supported by the medical evidence on record. In this regard reference is made to the opinion expressed by the medical officer. On these among other contentions he seeks rejection of the application.

6. There cannot be any dispute with regard to the proposition of law that in case of a victim of a sexual assault, the statement of a victim can become sole basis for conviction of the accused provided it is reliable and free from doubt. Needless to say that the Court will have to take into consideration the overall circumstances on record in order to ascertain the said aspect.

7. *Prima facie* perusal of the charge-sheet indicates that the statement recorded before the Magistrate is not given by the victim but made by the witness who is the lady who had informed about the occurrence of the incident to the mother of the victim. Apart from this, during the counseling session with the psychiatrist, a specific statement was made that this is not a case of sexual intercourse being done with the victim. In the light of these facts, the inconsistencies which are material in nature appear on the face of record.

8. Apart from this, this Court finds substance in the contention of the learned counsel for the Applicant that the CCTV footage does not indicate entry of the victim into the house of the Applicant. When it is alleged that the Applicant has forcefully taken the victim to his house and that there is CCTV footage of the outer portion of the house of the accused, the same ought to have been reflected therein. This Court therefore has reason to accept the contention of the learned counsel for the Applicant that the possibility of the CCTV footage being manufactured cannot be ruled out.

9. The Applicant has no criminal history against him. The trial is not likely to get over in a reasonable period of time. Considering the *prima facie* nature of material on record this is a fit case for enlargement of the Applicant on bail. Hence, following order.

ORDER

- i) The Bail Application is allowed.
- ii) In connection with C.R. No.505 of 2025 registered with the Kashmir Police Station, the Applicant be enlarged on bail on furnishing PR Bond of Rs.15,000/- with one surety in the like amount, to the satisfaction of the Trial Court.
- iii) The Applicant shall not tamper with or interfere with the prosecution evidence in any manner whatsoever.
- iv) The Applicant shall not contact the victim or witnesses directly or indirectly in any manner whatsoever.
- v) The Applicant shall appear before the Trial Court on every date of hearing, unless prevented by sufficient cause.

vi) As volunteered, the Applicant shall not enter the jurisdiction of Kashimira Police Station till conclusion of the trial.

vii) The Applicant shall inform his latest place of residence and 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 Police Station concerned.

10. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the learned Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

(R. M. JOSHI, J.)