

BAIL APPLICATION NO.3184 OF 2025

Mohammed Nadeem Faruq Shaikh ... Applicant
vs.
State of Maharashtra & Anr. ... Respondents

Mr. Anand Mishra with Ms. Priti Rao i/b Ashok Saraogi for the Applicant.
Ms. Megha Bajoria, APP for the Respondent-State.
Ms. Meghna Gowalani for Respondent No.2.
Mr. Sanjay Ghag, PSI, Malawani police station present.

CORAM : SHYAM C. CHANDAK, J.

DATED : 5th MARCH, 2026

P.C. :

The Applicant is seeking release on bail in an FIR bearing C.R. No.893 of 2024 registered at the instance of Respondent No.2 with Malwani police station, Mumbai under Sections 377, 506 of the Indian Penal Code (for short 'IPC') read with Sections 4, 8, 10, 12, 14(1) of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act')

2) Heard Mr.Mishra, learned Counsel for the Applicant, Ms.Bajoria, learned APP for the Respondent-State and Ms.Gowalani, learned Advocate appointed for Respondent No.2.

3) The prosecution case is that, one year prior to the registration

of FIR dated 26th June 2024, the Applicant allegedly subjected the victim boy aged 12 years to sexual assault. The last such act committed against the the victim on 20th June 2024. The Applicant came to be arrested on 26th June 2024. On completion of the investigation, the police submitted the charge-sheet. Thereafter, the Applicant filed an Application for his release on bail before the trial Court. The trial Court rejected the said Application vide the Order dated 6th May, 2025. Hence, this Application.

4) Mr. Mishra, learned Counsel for the Applicant submitted that, there is delay of one year in filing the report. As alleged, the victim was lastly subjected to sexual assault on 20th June, 2024. However, he did not immediately disclose the said incident to his family members. The medical evidence is not supporting the allegations in the report.

4.1) Mr. Mishra submitted that, as alleged, the Applicant had video-graphed the act of sexual assault and threatened the victim. As per the seizure panchnama, only the alleged mobile phone of the Applicant was seized. But the C.A. has only examined the memory card, about which there is no mention in the arrest-cum-seizure panchnama. Therefore, it is doubtful that the said SIM card belongs to the Applicant. Moreover, there is no C.A. report in respect of the obscene photos/videos of the victim which were allegedly taken with the help of said mobile phone by the Applicant. The witnesses and the panchas are the same.

5) The statements of the panchas was recorded to show that they

were witnesses to whom, the fact of alleged rape was disclosed by the father of the victim. All this indicate that the Applicant is innocent and he has been falsely implicated in the crime. Therefore and considering incarceration of the Applicant for the period of one year and nine months, he may be released on bail with conditions.

6) In reply, Ms.Bajoria, learned APP for the Respondent-State and Ms.Gowalani, learned Advocate appointed for Respondent No.2-complainant have strongly opposed the Application. They submitted that the victim has categorically disclosed that, he was subjected to sexual assault by the Applicant for more than one year. Therefore, the offence is serious. If the Applicant is released on bail he is likely to tamper with the prosecution evidence. Therefore, the Application may be rejected.

7) The FIR and statement of the victim clearly mention that, since about one year prior to filing of the FIR, the Applicant had subjected the victim to sexual assault and restrained the victim from disclosing said act to his family members and others by threatening him that otherwise the Applicant would circulate the videos and photos of his said act. Therefore, the victim did not immediately disclose alleged incident to his parents etc.

8) There is nothing on record indicating that the Applicant has been falsely implicated in this case.

9) In view thereof, I am of the view that there is a *prima facie* case against the Applicant of committing sexual assault on the victim. The

offence is serious. Therefore, the Applicant is not entitled to be released on bail. Hence, the following Order :-

ORDER

- (i) Application is rejected.
- (ii) Since the Applicant is under incarceration for one year and nine months, the trial Court is directed to expedite the hearing and disposal of the case and if possible, to dispose of the case within nine months from the date of this Order.
- (iii) If the trial is not disposed of within aforesaid period, the Applicant is at liberty to renew his prayer for bail.
- (iv) Application is disposed of in the aforesaid terms.

(SHYAM C. CHANDAK, J.)