

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO.3464 OF 2025

Aman Kumar Hareram Paswan

...Applicant

Versus

The State of Maharashtra & Anr. _____

...Respondents

Mr. Siddharth Singh i/b A.M. Saraogi for the Applicant

Ms. S.D. Shinde APP, for the Respondent-State.

Mr. Vaibhav V. Ugle for Respondent No.2

Mr. Nitin D. Sawant PSI, Bangaar Nagar.

CORAM: R. M. JOSHI, J.

DATED: 24th APRIL, 2026

PC:-

1. Applicant seeks bail in connection CR. No. 196 of 2025 registered with Bangurnagar Police Station for the offences punishable under Section 137(2) 64(2) (i) of Bharatiya Nyaya Sanhita 2023 (for short '**B.N.S**'.) and Section 4 of Protection of Children from Sexual Offences (in short '**POCSO**') Act, 2012.

2. The First Information Report came to be lodged by mother of the victim claiming that the victim who is minor,

was sexually abused by the present applicant. It is alleged that the applicant is brother of step father of the victim. On conclusion of the investigation, chargesheet came to be filed.

3. Learned counsel for the applicant submits that *prima-facie* there is no conclusive evidence on record to show that the victim is a minor or was minor at the relevant time. In this regard it is submitted that no Birth Certificate is placed on record, and the *bona -fide* certificate issued by the school is not from the school which the victim attended first. It is further argued that prosecution test indicates the age of the victim between 17 to 18 years and according to him, by giving benefit of margin of error, plus minus 06 months, applicant is entitled for bail.

4. In support of his submission he drew attention of the Court to the statement of victim recorded before the Medical Officer while giving history. It is contended that the applicant has no criminal history and he is not likely to flee from justice. Learned counsel for the respondent no.2 records no objection for grant of bail.

5. Learned APP opposed the application, it is her contention that on the basis of no objection recorded by the victim, bail cannot be granted. She further submits that there is evidence in the form of *bona-fide* certificate issued by the school, indicating victim is minor at the relevant time and hence her consent becomes immaterial. On these amongst other contentions, she seeks rejection of the bail.

6. Learned APP submits that charge has been framed. Though, it is a matter fact that charge has been framed, owing to the pendency before the Trial Court, there is no possibility of conclusion of the trial within reasonable time.

7. Needless to say that the burden is upon the prosecution at the first instance to prove that the victim of the crime is a minor. *Prima-facie* this Court finds substance in a contention of the counsel for the applicant that there is no conclusive evidence in order to show that victim is a minor, thus *prima-facie* finding is inevitable. In view of the fact that there is nothing on record to indicate *bona fide* certificate issued by the school where the victim attended the school for the first

time. As contemplated by Section 96 of the Juvenile Justice (Care and Protection of Children) Act, 2015. rule 12 framed thereunder. Apart from this, there is prosecution test conducted in order to determine age of the victim which margin of error indicates that it could be age about 18 years.

8. In the light of these facts, when victim accepts consensual relationship with the applicant, this court finds no reason to refuse the bail. Applicant has no criminal history and he is not likely to flee from justice. Hence the following order:-

ORDER

- i) Application stands allowed.
- ii) The applicant shall be released on bail in CR. No. 196 of 2025 registered with Bangurnagar Police Station, on furnishing PR. Bond of Rs. 15,000/- and one surety in the like amount to the satisfaction of the Trial Court.
- iii) The applicant shall attend the proceedings before the Trial Court on every date, unless exempted
- iii) In view of the above, application stands disposed of.

R. M. JOSHI, J.