

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3530 OF 2025**

Rohit Vinod Javare ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

Mr. Raj Chaurasia, *for the Applicant.*
Ms. Gauri S. Rao, *APP for the State-Respondent.*
Ms. Samiksha Pawar, *for Respondent No.2.*
PSI – Y. B. Kadam, *Kulgaon Police Station, is present.*

CORAM DR. NEELA GOKHALE, J.
DATED: 14th JANUARY 2026

PC:-

1. By order dated 25th September 2025, considering the age of the victim and the incident that took place in the Court as detailed in the said order, this Court had directed that the victim, aged about 17 years and 6 months at that time, being born on 6th March 2008, be admitted in Shaskiya Mulinche Nirikshan Griha/Vishesh Bal Griha, Near Tehsil Karyalaya, Gandhi Road, Ulhasnagar-5, Thane. She was admitted for a

period of 6 months from the date of the said order so that she would attain majority, at which time she would be released.

2. Pursuant to the said order, on 25th November 2025, despite the directions of this Court to the Trial Court to record the victim's deposition at the earliest, the trial had not proceeded at all. The Trial Court was once again requested to frame charges and record the victim's deposition within a period of 15 days from the date of that order. The stay of the victim in the said institution was continued in her interest.

3. Today, Mr. Raj Chourasia, learned Counsel for the Applicant, has tendered a copy of the deposition of the victim before the Trial Court. The same is taken on record. The examination-in-chief and cross-examination of the victim by the Applicant is completed. The Accused No.1, Rahul, is yet to cross-examine the victim. Be that as it may, the allegation of the Complainant, who is the mother of the victim, was primarily against the present Applicant, who is the Accused No.2. I have gone through the deposition of the victim

recorded by the Trial Court. She is 17 years and 9 months of age as on date and has stated before the Trial Court that the relationship between herself and the Applicant herein was consensual in nature and there was no force employed on her by the present Applicant, nor was there any ill-treatment by him. She has reiterated that the Accused No.1, namely Rahul, had attempted to sexually exploit her.

4. The parents of the victim are present in Court today. I have inquired with them as to whether they are ready and willing to look after their daughter i.e. the victim without inflicting any physical or mental harm to her. They have categorically stated that they have love and affection for their daughter and it was on the spur of the moment that the incident in Court took place. Both parents have expressed their willingness and readiness to take their daughter back to their home and look after her properly.

5. Considering that the examination-in-chief of the victim is completed and the cross-examination insofar as the Accused

No.2 i.e. the present Applicant is completed, I see no reason for her continued stay in the institution. Accordingly, the Superintendent of the said institution is directed to release the victim in the care and custody of Vaishali Surendra Mahabale and Surendra Yashwant Mahabale, the parents of the victim, on production of this order. The role of the officers of the institution is appreciated and commended.

6. Coming to the merits of the present Application, the Applicant seeks his release on bail in connection with FIR No. 81 of 2024 dated 5th August 2024 registered with the Kulgaon Police Station, Thane Rural for the offence punishable under Section 137(2) of the Bharatiya Nyaya Sanhita, 2023 ('BNS'). After investigation, Sections 64, 65(1), 69, 71, 351(2), 3(5) of the BNS and Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') were added.

7. Mr. Chourasia, learned Counsel for the Applicant, submits that the Applicant was arrested on 25th September

2024. He was 22 years of age at the time of the incident and the entire incident has taken place pursuant to a consensual relationship between the Applicant and the victim, *albeit* the victim was a minor at that point of time, being 16 and a half years of age. He further points to the deposition of the victim recorded before the Trial Court, which reveals that there was no force employed, nor any sexual assault on the victim as stated in the FIR by the victim's mother. He thus, prays that the Applicant be enlarged on bail.

8. Ms. Gauri Rao, learned APP, submits that there are four antecedents pertaining to the Applicant, out of which one of the criminal cases against him is under the POCSO Act and Section 376 of the Indian Penal Code, 1860; nevertheless, the Applicant is enlarged on bail in all the four offences. She submits that the Applicant is likely to harass or intimidate the Complainant as well as the victim if enlarged on bail. She thus, resists the Bail Application.

9. Ms. Samiksha Pawar, learned Advocate appointed to represent Complainant, supports the arguments of Ms. Rao and prays that the Bail Application be rejected.

10. I have heard learned Counsel appearing for the respective parties and perused the record with their assistance.

11. I have carefully gone through the examination-in-chief of the victim as well as her cross-examination. It is quite clear that the relationship between the victim and the present Applicant was consensual, *albeit* the victim was 16 and a half years of age at the time of the first incident. However, she has clearly stated before the Trial Court that she has love and affection for the Applicant and that she had run away with him of her own volition. Considering that the Applicant has suffered incarceration since 21st September 2024 and the trial has only recently commenced with the recording of the victim's evidence, it is unlikely that the trial will conclude in the near future. There is another accused, namely Rahul

Jagtap, who is yet to cross-examine the victim. The role of Rahul is significant as the complaint of the victim is primarily against the said Rahul. Considering the relationship between the Applicant and the victim and also the fact that the Applicant has suffered incarceration from September, 2024 to till date, I am inclined to enlarge the Applicant on bail with stringent conditions. Accordingly, it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.50,000/ with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Police Station concerned, on first Monday of every month between 10:00 a.m. and 12:00 p.m., till the conclusion of the trial. He shall also attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.

- iii) The Applicant will not enter the territorial jurisdiction of Kulgaon Police Station, Badlapur, which includes the area of residence of the Applicant, till the conclusion of the trial.
- iv) If the Applicant has not deposited his passport, the Applicant shall deposit the same with the concerned Police Station, if any;
- v) The Applicant shall not leave India, without permission of the trial Court;
- vi) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vii) The Applicant shall inform his latest place of residence and mobile 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 concerned Police Station;

viii) The Applicant to co-operate with the conduct of the trial;

ix) Any infraction of the aforesaid conditions shall entail cancellation of bail.

12. Application is allowed in the above terms and is accordingly disposed of.

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

(Dr. Neela Gokhale, J)