

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3593 OF 2025

Jagdish Patiram Rajbhar

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Mr. Sumedh Jagtap a/w Aarti Jadhav, for the Applicant.

Mr. Hitendra J. Dedhia, APP for the Respondent - State.

Ms. Vilasini Subramaniam, for the Respondent.

PSI – Sanjay S. Ghag, Pairavi Adhikari, Malwani Police Station,
present.

CORAM: R. M. JOSHI, J.

DATED: 15th APRIL, 2026.

PC:-

1. The Applicant seeks his release on bail in connection with CR No.1606 of 2023 dated 21st December, 2023 registered with Malwani Police Station, for offence punishable under Sections 376 and 354 of the Indian Penal Code, 1860 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. In short, it is the case of the prosecution that an incident occurred on 20th December, 2023 at about 09:15 p.m., when the husband of the Informant and father of victim saw the victim in the house of the Applicant who is a neighbour. When he went to the house of the Applicant, he saw that top of the victim was lifted upwards and knickers was pushed downwards. He

brought the victim to the house. When the victim was taken into confidence she disclosed that she was subjected to sexual intercourse. On the basis of said report offence came to be registered. The victim was sent for medical examination. The statements of witnesses including the father of the victim and victim herself were recorded. After completion of investigation charge-sheet was filed.

3. Learned counsel for the Applicant submits that there are material inconsistencies in the statements of the mother, victim herself and the father of the victim with regard to the incident in question. It is his further submission that there is absolutely no medical evidence in order to support the allegations made against the Applicant. It is his submission that in view of the disputes between the neighbours, he is being falsely implicated in the crime.

4. Learned APP and learned counsel for the Respondent No.2 opposed the application. It is their contention that owing to the serious nature of crime, the Applicant is not entitled for bail. Learned counsel for the Respondent No.2 argues that considering the medical condition of the victim it cannot be expected that she would give details of the occurrence of the incident. She drew the attention of the Court to the opinion expressed by the medical officer that the possibility that sexual intercourse is not ruled out. On these among other contentions they seek dismissal of the application. It is her further submission that even the accused has accepted the occurrence of the incident during his medical examination.

5. No doubt, the consistent evidence of the victim at all stages of the proceedings becomes sole ground for conviction of the accused person. However, the Court is required to take into consideration the material inconsistencies, if any, appearing from the record so also the overall evidence sought to be relied upon by the prosecution. *Prima facie* perusal of the record indicates that there are material inconsistencies in the statements of victim, mother of the victim and father of the victim. The mother of the victim while lodging report never claims that in presence of the father of the victim the incident of sexual intercourse has occurred, whereas father claims so. In the light of these facts, there are no injuries on the person of the victim. Though the medical officer does not rule out the possibility of sexual intercourse being committed, *prima facie* the said opinion is not supported by the clinical examination of the victim. Insofar as the statement of the accused is concerned, since the same is made in the presence of police, it is inadmissible in evidence.

6. Learned counsel for the Respondent No.2 apprehends pressurizing of the victim and witnesses at the hands of the Applicant if he is enlarged on bail. Learned counsel for the Applicant, on instructions, makes a statement that the Applicant will not enter the jurisdiction of concerned police station till conclusion of trial.

7. Having regard to the aforesaid facts there are material inconsistencies which create doubt with regard to the case of the prosecution. The Applicant has no criminal history. He is not likely to flee from justice. In these facts of the case, after filing of

the charge-sheet he cannot be kept in jail by way of pre-trial sentence. Hence, following order.

ORDER

- i) The Bail Application is allowed.
- ii) In connection with CR No.1606 of 2023 dated 21st December, 2023 registered with Malwani 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 attend all dates of hearing before the Trial Court unless exempted.
- v) The Applicant shall not contact the victim in any manner whatsoever.
- vi) As volunteered, the Applicant shall not enter the jurisdiction of Malwani Police Station till conclusion of the trial except for attending the dates of hearing before the Trial Court.

8. 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.)