

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.3806 OF 2025

Vaibhav Dinkar Nimkar

...Applicant

Versus

State of Maharashtra and Anr.

...Respondents

Ms. Nikita Mandaniyan a/w Atharv Gidaye, for the Applicant.

Mr. A.S. Gawai, APP for the Respondent - State.

Mr. Mainak Adhikary, for Respondent No.2.

CORAM: R. M. JOSHI, J.

DATED: 7th APRIL, 2026.

PC:-

1. The Applicant seeks his release on bail in connection with CR No. 143 of 2025 registered with Dindoshi Police Station, Brihanmumbai City, for offence punishable under Sections 74, 75 and 137(2) of the Bharatiya Nyaya Sanhita, 2023 and Sections 4 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

2. On the basis of the FIR lodged by the mother of the victim girl, offence came to be registered. As per the said information, there is an allegation against some unknown person of kidnapping the victim girl. After victim came home, the Informant found that she was sexually abused and hence further offence came to be charged. The Applicant was arrested in connection with the said crime. During the course of investigation,

statements of victim was recorded under Sections 161 and 164 of the Cr.PC. She was referred for medical examination however she refused to undergo medical examination. On conclusion of investigation, charge-sheet has been filed.

3. Learned counsel for the Applicant submits that there are material inconsistencies in the statements of the victim recorded before the police and the one recorded before the Magistrate. It is his submission that at the first instance there is absolutely no allegation made by her against the present Applicant. It is her submission that it will become more relevant in view of the fact that the Informant / prosecutrix has refused to undergo medical examination. She claims that the Applicant has no criminal history and he is not likely to flee from justice. She thus prays that the Applicant be enlarged on bail.

4. Learned APP and learned counsel for the Respondent No.2 opposed the application. It is their contention that there is a statement of victim recorded under Section 164 of the Cr.PC, which would be given more credence over the statement recorded under Section 161 of the Cr.PC. It is their further submission that having regard to the nature of accusations made against the Applicant, the medical report becomes immaterial. This submission is made in view of the fact that there is no allegation of commission of sexual intercourse with the victim.

5. No doubt, the reliable statement of the victim become sole ground for conviction of the accused. However, the moment material inconsistencies appear in the statements made during the

different stages of investigation, the Court must look for corroborative evidence. This is more so strictly applicable where there cannot be any other evidence including the evidence in the form of medical evidence in order to prove the case against the Applicant. In such circumstances, the statement of the victim must be consistent at all stages of the investigation and trial. *Prima facie* perusal of the record indicates that there are inconsistencies in the statements of the victim recorded before the Police under Section 161 of the Cr.PC and before the Magistrate under Section 164 of the Cr.PC. Thus, doubt is created with regard to the case of the prosecution.

6. The Applicant has no criminal history behind him and he is not likely to flee from justice. He is in jail from 26th June, 2025. Trial is not likely to get over in a reasonable time.

7. At this stage learned counsel for the Respondent No.2 apprehends that the Applicant on being released from jail would pressurize the victim as they reside in the same locality. In response, learned counsel for the Applicant, on instructions, makes a statement that the Applicant will not enter the jurisdiction of Dinodoshi Police Station till conclusion of the trial.

8. In view of the above, following order is passed.

ORDER

- i) The Bail Application is allowed.
- ii) In connection with C.R. No.143 of 2025 registered with the Dindoshi 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) As volunteered, the Applicant shall not enter the jurisdiction of Dindoshi Police Station till conclusion of the trial except for attending the dates of hearing before the Trial Court.

iv) The Applicant shall not tamper with or interfere with the prosecution evidence in any manner whatsoever.

v) The Applicant shall not contact the victim in any manner whatsoever.

9. 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.)