

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

BAIL APPLICATION NO. 4149 OF 2025

Arbaz Hussain Samad Hussain Ansari Applicant

V/s.

The State of Maharashtra and anr. ...Respondents

Mr. Mohd. Tausif Khan and Mr. J. Faisal for the Applicant.
Mr. S.S. Ghag, APP for Respondent No.1 - State.
Mr. Danish Patel, appointed Advocate for Respondent No.2.
Mr. Dudhmal, API, Malvani Police Station, Mumbai, present.

CORAM: SHYAM C. CHANDAK, J.

DATED : 11th JUNE, 2026

1) The Applicant is arraigned as an accused in FIR bearing C.R.No.680/2025 registered with Malvani Police Station, Mumbai for commission of the alleged offences punishable under Sections 64 and 351(2) of Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 on the report filed by the Respondent No.2.

2) Heard Mr. Khan, learned Counsel for the Applicant, Mr. Ghag, learned APP for the Respondent No.1 – State and Mr. Patel, learned Counsel for Respondent No.2.

3) Mr. Khan, learned Counsel for the Applicant submitted that from the text of the FIR, it is evident that there was friendship between the victim girl 'N' aged 17 years and the Applicant. Even, they had decided to marry with each other. The alleged rape was committed at about 7:00 a.m. in the morning, in a chawl, situated

in a densely populated area. However, the victim did not raise an alarm to attract crowd to save her. As such, this is nothing but a case of consensual relationship. Therefore, bail may be granted.

4) Mr. Ghag, the learned APP and Mr. Patel, learned Counsel for Respondent No.2, on the other hand, have opposed the Application and submitted that although there was friendship between the victim and the Applicant, the latter committed rape on her. Since the victim was minor, the consent on her part, is immaterial. Thus, there is *prima facie* case of a serious offence. Therefore, bail may be refused.

5) I have considered these submissions. The FIR indicates that the victim and the Applicant were residing in the same vicinity. They were friends since one year prior to the incident. As alleged, first, the Applicant raped the victim in the morning, at his house, situated in a Society. Adjacent, there were dwelling houses. However, the victim did not raise shout for help. The medical report mentions that the victim was not willing for medicolegal examination. There is delay of one day in filing the report.

6) Considering these circumstances, the angle of consensual relationship behind the alleged rape *prima facie* cannot be ruled out. The Applicant is behind bars for almost one year. Since charge-sheet is filed, therefore, continuation of the incarceration of the Applicant is not required. The Applicant is not likely to abscond and tamper with the prosecution evidence.

7) In the wake of the above, the Applicant is entitled for bail. Hence, following Order :-

(i) The Applicant – Arbaz Hussain Samad Hussain Ansari be released on bail in C.R.No.680/2025 registered with Malvani Police Station, Mumbai for the offences punishable under Sections 64 and 351(2) of Bharatiya Nyaya Sanhita (BNS), 2023 and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012, on his executing P.R. Bond in the sum of Rs.50,000/- with one or two sureties in the like amount.

(ii) The Applicant shall mark his attendance at Malvani Police Station, Mumbai on 1st date of each calender month between 11:00 a.m. to 2:00 p.m. till the conclusion of the trial.

(iii) The Applicant shall regularly attend the proceedings before the jurisdictional Court unless exempted by the said Court, for the reasons to be recorded in writing.

(iv) The Applicant shall not tamper with the prosecution evidence and shall not directly or indirectly influence upon the prosecution witnesses to prevent them from deposing against him.

(v) On being released from jail, the Applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(vi) Till the trial in the said case is over, the Applicant shall not reside within the jurisdiction of Malvani Police Station, Mumbai.

(vii) By way of abundant caution, it is clarified that the observations made hereinabove are confined for the purpose of determination to the entitlement for bail and they may not be construed as an expression of opinion on the guilt or otherwise of the Applicant and the trial Court shall not be influenced by any of the observations made hereinabove.

8) Bail Application stands disposed of in aforesaid terms.

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(SHYAM C. CHANDAK, J.)