

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 4265 OF 2025

Mohammed Hussain Mallang Shaikh Saddam ...Applicant

*Versus*

The State of Maharashtra And Anr. ...Respondents

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Mr. Himanshu Shinde, for the Applicant

Mrs. Veera Shinde, APP, for the Respondent - State.

Mr. Viral Mukte, for the Respondent No.2.

PSI Ghadage (Pairavi Officer), Meghawadi Police Station, Mumbai,  
is present.

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CORAM: R. M. JOSHI, J.

DATED: 29<sup>th</sup> APRIL, 2026

PC:-

1. Applicant seeks bail in connection with Crime No. 301 of 2025 registered with Meghawadi Police Station, Mumbai for the offences punishable under Sections 137(2), 64(2)(i), 64(2)(m) of The Bharatiya Nyaya Sanhita, 2023 (for short, "BNS") and Sections 4, 6, 8, 12 of Protection of Children from Sexual Offences Act, 2012 ( for short "POCSO Act").

2. In short, it is the case of the prosecution on the basis of the First Information Report lodged by the father of the victim then aged 16 years 3 months that the victim left the house without intimation and ultimately it was found that she stayed alongwith the present Applicant. It is also alleged that Applicant committed sexual intercourse with the victim who is

the minor. During the course of the investigation, victim was referred for medical examination, her statement was recorded under Section 183 of Bhartiya Nagrik Suraksha Sanhita, 2023 (for short, “BNSS”). On conclusion of investigation, chargesheet is filed.

3. Learned Counsel for the Applicant submits that on the face of it, it is case of love affair between two young persons. To support his submission he relies upon the statement of the victim recorded before the Magistrate so also the history given to the medical officer. It is his submission that *prima facie* there is no material on record to indicate on what basis the birth certificate came to be issued and the date of birth of the victim is alleged to be 25<sup>th</sup> January 2009 whereas the birth certificate is issued in the year 2018. It is his contention that in absence of the evidence of any order being passed by the Magistrate for issuance of such birth certificate at belated stage, the same cannot be considered to prove the age of the victim.

4. Learned APP and Counsel for the Respondent No.2 opposed the application. It is their contention that even if the victim has stated about her consent for the physical relations, she being minor the consent is immaterial.

5. *Prima facie* perusal of the record indicates that this is a case of love affair between the Applicant and Victim. This Court finds substance in the contention of the learned Counsel for the Applicant that in absence of any material collected during the

course of investigation that any order was obtained from Magistrate for issuance of birth certificate of the victim at belated stage, the Applicant may be in a position to convince the Trial Court for not accepting such evidence. In any case since there is no conclusive evidence to indicate that the victim was minor at the relevant time and as this case appears to be a consensual relationship, and as the Applicant has no criminal history there remains no reason for not enlarging him on bail. Hence, following order :-

**ORDER**

- i) Criminal Bail Application No. 4265 of 2025 stands allowed in connection with Crime No. 301 of 2025 registered with Meghawadi Police Station, Mumbai for the offences punishable under Sections 137(2), 64(2)(i), 64(2)(m) of The Bharatiya Nyaya Sanhita, 2023 and Sections 4, 6, 8, 12 of Protection of Children from Sexual Offences Act, 2012.
- ii) The Applicant be enlarged on bail, on furnishing P. R. Bond of Rs.15,000/- with one surety in the like amount, to the satisfaction of the Trial Court.
- iii) The Applicant is directed to attend all dates of hearing before the Trial Court, unless exempted by specific order.

- iv) The Applicant shall not tamper or attempt to influence or contact the victim, witnesses or any person concerned with the case;
- v) Any breach of the aforestated condition shall result forthwith into cancellation of bail.

6. In view of the above, Application stands allowed and disposed of accordingly.

7. It is clarified that the above observations are made on *prima facie* consideration of the material on record and the same shall not bind the parties during the final hearing of the Trial Case.

(R. M. JOSHI, J.)

VDMokal/-