

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO. 441 OF 2026

Abbas Kutbuddin Ratlamwalaa

...Applicant

Versus

State of Maharashtra

...Respondent

Senior Counsel Mr. Sudeep Pasbola a/w Mr. Hrishikesh Mundargi
a/w Mr. Ayush Pasbola, a/w Mr. Chinmay Godse a/w Rajan
Gurnani, a/w Mr. Nagraj Tarade i/b Pravada Raut, for the
Applicant.

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

Mr. M. A. Khan i/b Capri Legal, for the Respondent No.2.

PI Gurav, Colaba Police Station, is present.

CORAM: R. M. JOSHI, J.

DATED: 16th MARCH, 2026

PC:-

1. This application is practically filed with the consent of victim for grant of bail in connection with Crime No. 362/2025 registered with Agripada Police Station, Mumbai, for the offences punishable under Section 64(1) of the Bhartiya Nyaya Sanhita, 2023 (For short "BNS Act") and under Section 4(1), 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (For short "POCSO Act").

2. It is a case of the prosecution that victim who is aged about 17 years and 6 months at the relevant time, was sexually abused by the Applicant, aged 35 years. On the basis of the First Information Report lodged by the mother of the victim constrained to be registered against the Applicant. During the

course of the investigation victim was produced before the Medical Officer for medical examination. History given by the victim was recorded by the Medical Officer so also she was medically examined. On conclusion of the investigation chargesheet came to be filed.

3. Learned Senior Counsel for the Applicant submits that, here in this case, it could be seen that the victim was a consenting party to the acts allegedly done by the Applicant. It is further argued that victim was aged 17 years and 6 months and hence was of age of understanding. According to him victim has refused to record statement under Section 164 of Cr.P.C. that indicates about there being no substance in the allegations.

4. Respondent No.2 is present in the Court. Learned Counsel for the victim, on instructions from victim & Respondent No.2, records no objection for grant of bail. He confirms the fact that victim is now major and she does not wish to oppose the application.

5. Learned APP however opposed the application by contending that on the basis of evidence on record it could be seen that the victim was minor and as such her consent is immaterial. According to him though inspite of notice for recording statement under Section 164 of Cr.P.C. she refused to record such statement, however that itself cannot become ground for grant of bail.

6. It needs to be recorded that victim has no objection for grant of bail to the Applicant. One can now foresee the fate/outcome of the trial in such scenario.

7. This no objection coupled with the fact that the victim without any justification refused to record statement under section 164 of Cr.P.C., this Court finds no impediment in allowing the application. Hence following order :-

ORDER

- i) Criminal Bail Application stands allowed in connection with Crime No.362/2025 registered with Agripada Police Station, Mumbai, for the offences punishable under Section 64(1) of the Bhartiya Nyaya Sanhita, 2023 and under Section 4(1), 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.
- ii) Applicant be enlarged on bail, on furnishing P. R. Bond of Rs.15,000/- with one surety in the like amount, till the satisfaction of the Trial Court.
- iii) Applicant to attend all dates of hearing before the Trial Court unless his presence is exempted by passing specific order.
- iv) Any breach of the above condition shall result forthwith in cancellation of bail.

8. The application is allowed in aforesaid terms and is accordingly disposed of.

9. All concerned to act upon the authenticated copy of this order.

(R. M. JOSHI, J.)

VDMokal/-