

Ajit Pathrikar

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 751 OF 2026**

Sainath Eknath Savar ...Applicant
Versus
The State Of Maharashtra And Anr. ...Respondents

Mr. Rajas Naik *a/w Vishal Bhogle, for the Applicant.*
Mr. Mayur Sonavane, *APP for the State-Respondent.*
Ms. Harshita Nag, *for Respondent No.2.*
Ms. Munira Palanpurwala, *Amicus Curiae, is present.*

CORAM DR. NEELA GOKHALE, J.
DATED: 27th FEBRUARY 2026

PC:-

1. The Applicant seeks his release on bail in connection with C.R. No. 2 of 2023 dated 2nd January 2023 registered with the Wada Police Station, Palghar for the offences punishable under Section 376 of the Indian Penal Code, 1860 (“IPC”) and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 (“POCSO”).

2. The case of the prosecution, in brief, is that the Applicant was 19 years of age at the time of the incident. On

1st January 2023, when the victim went to the toilet outside her house, the Applicant entered the toilet and sexually assaulted her. She went to the police station and filed a complaint pursuant to which, the FIR was registered. Thus, the Applicant was arrested on 2nd January 2023.

3. The Applicant made an application seeking bail before the Additional Sessions Judge, Bhiwandi. However, by order dated 3rd January 2026, the said application was rejected. Hence, the Applicant is before this Court seeking the relief as prayed.

4. Mr. Rajas Naik, learned counsel for the Applicant, has placed on record the statement of the victim recorded by the Trial Court in the course of the trial. According to Mr. Naik, the victim herself has clearly stated before the Trial Court that no such incident has taken place and she had never informed the police as such. He submits that thus, the Applicant is falsely implicated in the offence and the Applicant be released on bail.

5. Mr. Mayur Sonavane, learned APP, states that the offence is serious. He submits that the fact that the victim has recorded in her statement stated that no such incident has taken place, itself indicates that she has been intimidated by the Applicant's family. Mr. Sonavane states that this is because the Applicant/Accused is the cousin brother of the victim and the family does not want to proceed with the case. It is in this context, Mr. Sonavane states that the victim may have deposed as such before the Trial court under the pressure and control of the family members. He thus prays that the Bail Application be rejected.

6. At the very outset, Ms. Harshita Nag, learned counsel appearing for the victim, submits that the victim has informed her that she does not want to proceed with the matter as she is married and also has delivered a child out of the wedlock. She supports the case of the Applicant and states that the victim has no objection to enlarge the Applicant on bail.

7. Considering that the victim was a minor at the time of the incident and that Ms. Nag has informed me that the victim herself has given consent to the grant of bail to the Applicant, I deemed it appropriate to appoint an advocate from the Legal Aid Services Authority of this Court to take instructions directly from the victim. Accordingly, Ms. Munira Palanpurwala, learned Advocate, was appointed to take instructions from the victim directly and inform the Court as to the status. Not so surprisingly, Ms. Palanpurwala was not permitted by the father of the victim to talk to her. However, she does confirm that the victim is in the hospital and has delivered a child from her marriage. Accordingly, she also states that the father of the Complainant has insisted that they do not want to proceed with the case and has no objection for the bail to be granted to the Applicant.

8. I have heard learned counsel appearing for the respective parties and perused the record with their assistance.

9. Unfortunately, a young girl/victim appears to be controlled by her family members considering there is familial relationship between the victim and the Applicant. *Prima facie*, it appears that the victim has deposed before the Trial Court that the said incident never happened, under pressure of the family members. I have perused the FIR very carefully. In fact, the victim girl, in her statement along with the FIR, has clearly stated that the Applicant's wife also came over there and immediately upon seeing his wife, the Applicant ran away and the victim donned her clothes and returned to the house. Thereafter, she informed her parents and grandparents regarding the said incident. It is very disturbing to note that the Investigating Officer has failed to record the statement of the Applicant's wife, since the Applicant's wife was an eyewitness to the entire incident.

10. Be that as it may, at this stage, the Applicant has suffered incarceration for three years and there are 13 witnesses more to be examined before the Trial Court.

Admittedly, the trial is not likely to conclude in the near future. The Applicant is also a young boy of 25 years. Further, admittedly, the victim herself is married and has delivered a child from the wedlock with her husband.

11. In view of the aforesaid, no purpose will be served by continued incarceration of the Applicant in custody. Hence, I am inclined to grant relief to the Applicant and it is ordered as under:

ORDER

- i) The Applicant be enlarged on bail, on executing PR Bond in the sum of Rs.30,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall attend the Trial Court concerned on each and every date as directed, till the conclusion of the trial, save and except if the Applicant is exempted from appearance by orders of the Trial Court.
- iii) If the Applicant holds a passport, he shall deposit the same with the Police Station concerned;

- iv) The Applicant shall not leave India, without permission of the trial Court;
- v) The Applicant shall not tamper or attempt to influence or contact the complainant, witnesses or any person concerned with the case;
- vi) The Applicant shall inform his latest place of residence and mobile contact number immediately after being released and / or change of residence or mobile details, if any, from time to time to the Court seized of the matter and to the Investigating Officer of the concerned Police Station;
- vii) The Applicant to co-operate with the conduct of the trial;
- viii) Any infraction of the aforesaid conditions shall entail cancellation of bail.

12. The Bail Application is allowed in the above terms and is accordingly disposed of.

13. It is made clear that the observations made herein are *prima facie* and are confined to this Application and the Trial Judge to decide the case on its own merits, uninfluenced by the observations made herein.

14. The Court acknowledges and appreciates the assistance rendered by Ms. Munira Palanpurwala.

(Dr. Neela Gokhale, J)