

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 1100/2025

(Acharya S/o Aniruddha Bhaisare Vs. State of Maharashtra & anr.)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A.S. Ambatkar, Advocate for applicant.
Mr. A.R. Chutke, APP for non-applicant No.1/State.
Mr. A. Ayyub, Advocate (appointed) for non-applicant No.2.

CORAM: M. M. NERLIKAR, J.
DATED : 13/02/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.38/2025 registered with Police Station Bramhapuri, Dist. Chandrapur for the offences punishable under Sections 64, 64(2)(m), 65(1), 351(1), 75(1)(iv), 78(1) of Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act.

3. Brief facts of the prosecution story is that as per the FIR lodged by victim aged 13 years 09 months, it is alleged that the victim knows the applicant by face, as he would visit her village. Since Diwali, when the victim and her sister used to go to school on bicycles, the applicant used to follow her. He used to stop the victim midway and talk in filthy language and also harass her. He got the

victim's phone number from somewhere and used to call call her and asked her to meet, to which she used to refuse. On 01.01.2025, at midnight, he called her and asked "tu mala sex de" on her refusal, he threatened to kill her sister and therefore she was compelled to go outside, he dragged her into a nearby field and forcefully removed her clothes and had forceful sexual intercourse with her, thereafter he threatened her not to disclose to her parents or else she would be killed. Again, on 29.01.2025 at midnight he called her to meet by threatening her, if she refused, he would kill her sister and due to the threat, she went outside and he took her to the field and again had forceful sexual intercourse.

4. The learned counsel appearing for the applicant submits that the applicant and the victim are having love affair. He submits that the victim is of 13 years and 8 months, when the alleged incident took place. The applicant is of 21 years of age. He submits that though it is alleged that the applicant has committed rape, however there is no supporting evidence. He further submits that the applicant is behind bar since 01.02.2025 and till today no charges are framed, therefore the applicant deserves to

be enlarged on bail.

5. On the other hand, the learned APP as well as the learned counsel appearing for the victim vehemently opposed the application and submitted that even if it is to be considered that there was a love affair between the couple, the victim being a minor, her consent would be no consent in the eye of law. They further submit that it cannot be inferred that it is a consensual act, when the victim had asked that under threat she was compelled to establish sexual relations with the applicant. They further submit that considering the age of the victim, bail may not be granted. They have also invited my attention to the various statements including the statement of mother and father of the victim wherein they state that the applicant had given threats to the victim.

6. Upon consideration of the rival submissions, it appears that the applicant is 21 years of age and the victim is 13 years and 8 months. It further appears that the sexual intercourse which took place was at midnight and that too in the farm near the house of the victim. It appears that there is a love affair between the applicant and the victim. As argued by the learned counsel appearing for the

applicant that there was no sexual intercourse as there is no supporting medical evidence to that effect and as the hymen injury is old healed. Though it appears that the applicant is in love with the victim, however the fact remains that the victim is of 13 years and 8 months, therefore her consent would be immaterial. However considering the age of the applicant that i.e. 21 years and he is behind bar since 01.02.2025 and the fact that the investigation is over and charge sheet is filed, I am inclined to grant the bail, hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Acharya S/o Aniruddha Bhaisare be released on bail in connection with Crime No.38/2025 registered with Police Station Bramhapuri, Dist. Chandrapur for the offence punishable under Sections 64, 64(2)(m), 65(1), 351(1), 75(1)(iv), 78(1) of Bharatiya Nyaya Sanhita, 2023 and under Sections 4, 6, 8, 12 of the Protection of Children from Sexual Offences Act on his furnishing P.R. Bond of Rs. 25,000/- with one surety in the like amount.

(iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

(iv) The accused shall provide his residential address and cell number to concerned Police Station and shall not change his place of residence without prior intimation to the concerned Investigating Officer.

(v) The applicant/accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates or fails to comply with the aforesaid conditions, his default would entails the State to ask for cancellation of bail.

(vi) Fees of the appointed counsel be quantified and paid as per Rules.

(M. M. NERLIKAR, J.)