



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION [B.A.] NO. 1404 OF 2025

Rohan S/o Ashok Binzale

-- VERSUS --

State of Maharashtra and Another

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

Court's or Judge's orders.

Mr. Dipesh N. Mehta, Advocate for the Applicant.

Ms. P.C. Bawankule, A.P.P. for the Non-applicant No.1/State.

Ms. Tejal Agre, Advocate (Appointed) for the Non-applicant No.2.

CORAM : M.M. NERLIKAR, J.

DATE : FEBRUARY 24, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.279/2024 for the offence punishable under Sections 363, 376(3), 354, 354(A) and 506(B) of the Indian Penal Code, 1860, (IPC), and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, (POCSO), registered with Police Station Wathoda, District Nagpur.

3. This Court, by an order dated 09/01/2025, has passed the following order:-

"1. The application is for grant of bail.

2. Heard learned Counsel for the applicant to some extent and perused the investigation papers

and I have shown my disinclination to grant bail, hence learned Counsel for the applicant seeks permission to withdraw the application. Considering the submissions of the learned Counsel for the applicant that applicant is only 19 years of age and pursuing his career, the liberty is granted to the applicant to approach this Court after nine months, if there is no substantial progress in the trial.

3. The application is disposed of as withdrawn.”

This Court granted liberty to the applicant to approach this Court after nine months, if there is no substantial progress in the trial. Accordingly, the present application is filed.

4. As per the First Information Report, the informant, mother of minor daughter aged about 14 years, reported that on 01/05/2024, accused Ram Tandekar and Rohan Binzale took the minor and her cousin inside a closed house under the pretext of an outing, threatened them with knife, and committed acts of sexual assault against their will, warning them not to disclose about the incident. On 14/05/2024, the minor informed her mother about the incident and further threats by the accused and accordingly offence of sexual assault on a minor and criminal intimidation were registered, and investigation was initiated.

5. The learned counsel appearing for the applicant submits that there is no progress in the trial. He submits that he was produced only two times in a year. There are no charges framed, and therefore, considering the “delay in trial” he be granted bail. The victim is 14 years and 5 months and the applicant is of 19 years of age and is a student.

6. On the other hand, the learned A.P.P. and the learned counsel for the victim submit that though the liberty was granted to the present applicant by this Court, however, on merits, this Court has shown its disinclination to allow the application and, therefore, considering the fact that the present applicant is involved in a heinous and serious offence of rape of 13 year old, the applicant would not be entitled for bail. They further submit that applicant has not raised this ground before the trial Court and, therefore, they prayed to reject the application.

7. I have considered the rival submissions, admittedly, there are serious allegations against the applicant, however, this Court has already observed that the applicant would be at liberty to approach this Court after nine months, in case, there is no substantial progress in the trial, as the applicant cannot be incarcerated for indefinite period.

8. I have considered the rival submissions. The Hon'ble Supreme Court in the case of ***Javed Gulam Nabi Shaikh VS State of Maharashtra and Another, (2024) 9 SCC 813***; has in para no.17 held as under:

“17. If the State or any prosecuting agency including the court concerned has no wherewithal to provide or protect the fundamental right of an accused to have a speedy trial as enshrined under Article 21 of the Constitution then the State or any other prosecuting agency should not oppose the plea for bail on the ground that the crime committed is serious. Article 21 of the Constitution applies irrespective of the nature of the crime.”

Further in case of ***Sheikh Javed Iqbal VS State of Uttar Pradesh, (2024) 8 SCC 293***; it has been held in para no.42, by the Supreme Court as under :

“42. This Court has, time and again, emphasized that right to life and personal liberty enshrined Under Article 21 of the Constitution of India is overarching and sacrosanct. A constitutional court cannot be restrained from granting bail to an Accused on account of restrictive statutory provisions in a penal statute if it finds that the right of the Accused-undertrial Under Article 21 of the Constitution of India has been infringed. In that event, such statutory restrictions would not come in the way. Even in the case of interpretation of a penal statute, howsoever stringent it may be, a constitutional court has to lean in favour of constitutionalism and the Rule of law of which liberty is an intrinsic part. In the

given facts of a particular case, a constitutional court may decline to grant bail. But It would be very wrong to say that under a particular statute, bail cannot be granted. It would run counter to the very grain of our constitutional jurisprudence. In any view of the matter, K.A. Najeeb (supra) being rendered by a three Judge Bench is binding on a Bench of two Judges like us.”

Even in the recent judgment in case of **Anoop Singh .vs. U.T. of J and K (SLP (Cri) No.1398/2026)** vide order dated 03/02/2026 has in paragraph no.8 held as under :

“8. The report is extremely disturbing. The report highlights the sorry state of affairs at the end of the prosecuting agency. We are at pains to note that in last 7 years, the prosecution has been able to examine only 7 witnesses. Prosecution still intends to examine 17 more witnesses. We wonder who are these 17 witnesses who are yet to be examined and if not examined, what would be the adverse effect on the case of the prosecution. However, the most unfortunate part of the report of the Trial Court is that past 82 hearings, not a single witness has been examined.”

9. Considering the above exposition of law and the fact that the applicant is in jail since 15/05/2024, and there is no substantial progress in the trial, therefore, I am inclined to grant bail to the present applicant on imposing stringent conditions. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Rohan S/o Ashok Binzale) be released on regular bail in connection with Crime No.279/2024 for the offence punishable under Sections 363, 376(3), 354, 354(A) and 506(B) of the Indian Penal Code, 1860, (IPC), and Sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, (POCSO), registered with Police Station Wathoda, District Nagpur, on his furnishing a P.R. bond of Rs.25,000/- (Twenty Five Thousand Rupees) with one solvent 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 applicant shall not enter within the vicinity of Nagpur, except for attending trial;

(v) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his

place of residence without prior intimation to the Investigating Agency;

(vi) The 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 entail the State to ask for cancellation of bail or even trial Court *suo moto* take cognizance of this and cancel the bail;

(vii) Fees of the appointed counsel be quantified and paid as per rules;

(viii) Pending Misc. Application(s), if any, also stand disposed of.

[M.M. NERLIKAR, J]