



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION NO. 74 OF 2026

Ashish s/o Rastrapal Waghmare

..vs..

State of Maharashtra and anr.

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

Court's or Judge's orders

Shri M.V. Rai, Advocate for the applicant.

Shri V.A. Thakre, APP for the State.

Ms Alka D. Agarwal, Advocate for non-applicant no.2.
 (appointed).

CORAM: M.M. NERLIKAR, J.

DATE : 20.02.2026.

Heard.

2. By way of this application, the applicant is seeking bail in connection with Crime No.263 of 2025 registered with Girad Police Station, District Wardha for the offence punishable under Sections 64(1), 65(1), 333, 3(5) of the Bharatiya Nyaya Sanhita and Sections 4 and 6 of the Protection of Children From Sexual Offences Act, 2012.

3. The FIR was lodged by the victim girl alleging sexual intercourse at the hands of the applicant on 21.09.2025, when she and her younger sister were alone at home.

4. Learned Counsel for the applicant submits that the entire charge-sheet shows that there was love relationship between the applicant and the victim. The victim stated that the alleged incident took place on 21.09.2025 near-about 4.00 p.m. whereas the Call Details Reports shows that at the revevant time there was

telephonic communication between the applicant and the victim. It appears that they were in constant touch with each other. There is no supportive medical evidence to the alleged incident. Even the medical report shows that 'old healed hymen tear'. There are no external injury shown in the medical report. Investigation is complete and charge-sheet has been filed. The Applicant is behind the bar since 22.09.2025, hence the applicant be enlarged on bail.

5. On the other hand, learned APP for the State and learned appointed Counsel appearing for the non-applicant no.2 vehemently opposed the application the ground that the victim is only 14 years and 9 months of age. The FIR itself shows that there was sexual assault without her consent at the house of the victim when she and her younger sister were alone at the house. When the younger sister of the applicant made hue and cry, the neighbors came there and the applicant and his friend ran away. It is submitted that the medical report supports the case of the prosecution, wherein stains were found at the front side of Kurta and on underside of panty. Merely absence of external injury that itself is not sufficient to ruled out the offence of rape. The learned APP invited my attention to the statement of the younger sister of the victim wherein she specifically stated that the applicant has given her phone for playing and entered in the house. When she tried to enter inside the house, the applicant's friend restrict her, upon which when she made hue and cry, the neighbors came there and the applicant and his friend ran away from the spot

of incident. Therefore, considering the tender age of the victim and the age of the applicant, who is 35 years old, the applicant does not deserves to be enlarged on bail.

6. I have considered the rival submission and perused the record. Admittedly, the FIR was registered by the victim, who is 14 years and 9 months of age alleging rape. However, CDR report shows that at the time of incident, both the applicant and the victim were in constant touch by telephonic communication. Admittedly, the consent of minor is immaterial. The incident took place at about 4.00 p.m. as could be gathered from the FIR and other material, however, the CDR report shows that the applicant and the victim were in constant touch between 16.09 hours to 17.23 hours and therefore, it is very difficult to rely on the said fact that the incident took place at about 4.00 p.m. Since, the investigation is complete and charge-sheet has been filed and the applicant is behind the bar, I am inclined to enlarge the applicant on bail. No purpose would be served by keeping the applicant behind the bar for indefinite period. Hence, the following order :

- (a) The application is allowed.
- (b) The applicant Ashish s/o Rastrapal Waghmare in connection with Crime No.263 of 2025 registered with Girad Police Station, District Wardha be released on bail on furnishing P.R. bond of Rs.50,000/- with one or two sureties in the like amount.
- (c) The applicant shall not directly or indirectly make

any contact, inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

- (d) 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.
- (e) 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.

7. The observations are *prima facie* in nature and the Trial Court shall not be influenced by the same .

8. All Misc. application(s), pending if any, shall stands disposed of accordingly.

9. Fees of the appointed Counsel be quantified as per rules.

(M.M. NERLIKAR, J.)

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