



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

CRIMINAL APPLICATION (BA) NO. 278/2026

(Khushal S/o Nandu Kosamshile Vs. The 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.V. Agnihotri, Advocate h/f Mr. A.C. Jaltare Advocate for applicant.
Ms. P. C. Bawankule, App for non-applicant/State.
Ms. Preeti S. Gwalani, Advocate (appointed) for non-applicant No.2.

CORAM: M. M. NERLIKAR, J.

DATED : 27/03/2026.

Heard.

2. By this application, the applicant is seeking bail in connection with Crime No.03/2025 registered with Police Station for the offence punishable under Sections 63(vi), 64(1), 64(2)(m), 351(2) of the Bharatiya Nyaya Sanhita read with Section 4 and 6 of the Protection of Children from the Sexual Offences Act.

3. The brief facts of the prosecution story are that the First Information Report ("FIR") was registered by victim/non-applicant No.2 on 22/03/2025 stating that the applicant and the victim got acquainted with each other at the Kabaddi game held in Mouza Makepalli. They exchanged their mobile numbers. Thereafter, they started

having a love affair with each other. However, on one day in the month of October 2023, the applicant called her at night at Chankapur jungle, where without her consent, he committed sexual intercourse and gave her word to not do it again. Thereafter, in the year 2024 also, he committed sexual intercourse without her consent from time to time. After that the victim started avoiding him, however he started threatening the victim that he would disclose everything to her parents, therefore, the FIR was registered.

4. The learned counsel for the applicant submits that the victim is of understandable age as she is of more than 16 years. Even the applicant is just of 23 years of age. He submits that the sexual relationship was developed by consent as it was out of love affair which could be gathered from the FIR. Considering this fact and the fact that the applicant is behind bars since 23/03/2025, the applicant be released on bail.

5. On the other hand, the learned APP and the learned counsel appearing for the victim vehemently oppose the application and submit that the victim is a

minor, consent of the minor is no consent in the eyes of law. They submit that by threatening the victim, the applicant has committed sexual intercourse with her. They further submit that the applicant is harassing the victim by coming to her house and creating a ruckus at her house. Though the victim is not willing to keep in contact with him, however, he is continuously giving missed calls to on her father's number which could be gathered from the statement of the father and the neighbour, therefore they submit that there is no merit in the application and the same deserves to be rejected.

6. I have considered the rival submissions. Admittedly, from the FIR, it appears that the victim is of 16 years, 4 months and 4 days. It further appears that for the first time the sexual intercourse took place in October 2023. The victim at the relevant time was of 15 years. Though it appears from the FIR that they were having a love affair with each other, but the fact remains that the victim was a minor at the relevant time and the applicant has committed repeated sexual intercourse with her. It is further to be noted that his conduct of harassing and threatening her is also objectionable. It further appears

that the FIR was lodged for the reason that the applicant was harassing and threatening her in order to meet him and further it could be seen that victim kept quiet since October 2023. No grievance was made at point of time in respect of sexual intercourse. However, as the applicant is behind bars since 23/03/2025 and the fact that the investigation is over and charge sheet is filed, the applicant can be released on bail by imposing stringent conditions, hence the following order:-

ORDER

- (i) Criminal application is allowed and disposed of.
- (ii) The applicant/accused Khushal S/o Nandu Kosamshile be released on regular bail in connection with Crime No.03/2025 registered with Police Station for the offence punishable under Sections 63(vi), 64(1), 64(2)(m), 351(2) of the Bharatiya Nyaya Sanhita read with Section 4 and 6 of the Protection of Children from the 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 not contact the victim in any way either on phone or in person. Further, the applicant shall not enter into the area in which the victim and the witnesses are residing.

(vi) 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 entail the State to ask for cancellation of bail.

(vii) The fees of the appointed counsel be quantified and paid as per Rules.

(M. M. NERLIKAR, J.)