

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

CRIMINAL APPLICATION NO.606 OF 2026

Shahenshanha Rahemanshanha Saiyyad

..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 V.D. Darne, Advocate for the applicant.

Shri A. G. Mate, APP for the State.

CORAM: M.M. NERLIKAR, J.

DATE : 06.05.2026.

Heard.

2. The applicant came to be arrested in connection with Crime No.452/2025 registered with Hudkeshwar Police Station, Nagpur City for the offence punishable under Section 137[2] of the Bharatiya Nyaya Sanhita, 2023 (BNS). Charge sheet came to be filed and Sections 64[2][M], 70, 115[2], 351 [2], 352, 238 of the BNS, Sections 4, 6 and 17 of the Protection of Children from Sexual Offences Act (POCSO) and Sections 4, 5 and 8 of Prevention of Immoral Trafficking Act, 1956 came to be added.

3. The first information report in the matter is lodged by one Sanjiv Rohankar, that on 15.07.2025 his elder daughter (victim) left the house stating that she is going to medical shop for buying medicine, however, she did not return. A report was lodged apprehending that some unknown person has kidnapped her. During the course of investigation the victim was found at Yavatmal and she stated that the accused person have committed

gang rape on her.

4. Learned Counsel for the applicant submitted that this Court vide order dated 25.02.2026 has permitted the applicant to withdraw the bail application No. 116 of 2026. The said application was withdrawn on the basis of instructions of his client. This Court by order dated 22.04.2026 has granted bail in the same crime to one Vicki Gajanan Maraskolhe. On the basis of order dated 22.04.2026, the present application came to be filed stating that the present applicant is also standing on the same footing and therefore, he may be enlarged on bail. It is also submitted that while passing the order dated 25.02.2026, this Court has not touched the merits and also the Counsel who appeared in that matter, has not assisted this court properly. Also, there were no instructions from the client to withdraw the application and therefore, according to the learned Counsel for the applicant, considering the order dated 22.04.2026, the present applicant is also entitled to be enlarged on bail on the ground of parity as there is no allegation of rape against the present applicant.

5. On the other hand, learned APP vehemently opposes the application on the ground that after 25.02.2026, there is no change in circumstance. The applicant has directly approached this Court on the ground of parity. The role attributed to Vicki Gajanan Maraskolhe is altogether different and detailed reasons have been assigned by this Court while enlarging Vicki Maraskolhe on bail and therefore, under such circumstance, it cannot be said that the role of the

present applicant and Vicki Maraskolhe is similar and therefore, no parity can be extended to the applicant. He further invited my attention to the statement of one Nikesh Vilas Takle wherein he specifically stated that on 17.07.2025, present applicant came to him and asked the keys of tin shed , in which the applicant along with others brought the victim and committed rape on her. Considering the fact that the applicant has withdrawn the application on 25.02.2026 and as there is no change in the circumstance and the role of the applicant is not similar to Vicki Maraskolhe, the application deserves to be rejected.

6. I have considered the rival submissions. Admittedly, on 25.02.2026, the Criminal Application No.116 of 2026 has been withdrawn by the Counsel for the applicant on the instruction of his client. Further the applicant again approached the Trial court and the Trial court vide order dated 18.04.2026 has rejected his bail application on merits. From record it appears that this Court on 22.04.2026 in Criminal Application No.429 of 2026 has passed reasoned order and enlarged Vicki Gajanan Maraskolhe on bail on various grounds. From perusal of the orders and the record it appears that the parity can not be applied as the role and material available on record demonstrates direct allegations against the present applicant and the role assigned to the present applicant and Vicki Maraskolhe are totally different. Therefore the contention of the learned Counsel for the applicant that the applicant and the Vicki Maraskolhe are standing on the same footing cannot be accepted as from the statement of Nikesh Vilas Takle the

role of the present applicant is evident that he was the one who had asked for keys of tin shed where the offence was committed. Even it was the contention of the learned advocate for the applicant that even Vicki Maraskolhe was implicated in the statement of Nikesh Vilas Takle however same is based on hearsay. So far as Vicki Maraskolhe is concerned he was granted bail because his identity has not established and his name does not surface in the entire charge-sheet. Once the application is permitted to be withdrawn by this Court on instructions, approaching this Court again without any change in circumstance is nothing but an abuse of the process of law.

7. Considering the fact that there is no change in circumstance and no parity can be applied, I am not inclined to enlarge the applicant on bail. Hence, the application is rejected.

(M.M. NERLIKAR, J.)

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