

MHTH230014192026  <u>Cri.Bail Appln./700/2026</u>	ORDER IN CRI. BAIL APPLICATION NO.700/2026 Noor Ali Chote Miya.Applicant. Vs. State of Maharashtra, (Naigaon Police Station).Respondent.
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ORDER BELOW EXHIBIT 01

(Date: 14/08/2026)

This is an application for Regular bail u/s.483 of BNSS, 2023 filed by accused/applicant **Noor Ali Chote Miya** for releasing him in C.R. No. 21/2025 of Naigaon Police Station for the offences punishable under Sections 65(1), 351(2) of BNS, 2023 and Sec.4, 12 of POCSO Act, 2012.

2] **The prosecution case in brief is as under :-**

The informant lodged report to Naigaon Police Station, thereby alleging that victim is her minor daughter and residing with her in joint family. On 13/01/2025 at about 10:00am she noticed that victim's tummy area is increased, hence she has asked whether victim had regular periods or not. She informed that she had no menses from the month of September 2024. Hence, they had been to hospital to medically examined the victim and came to know that victim is four months pregnant. On inquiry, she disclosed that in the month of September 2024 on one day she was coming home from her school. While she was passing from residential school, Chinchoti, Naigaon(E), the accused called her and asked to take rest as it is very hot day. He offered Vadapav to her and took her inside the spot. There he forcibly committed sexual intercourse with her and extended threats that he will kill her family members, if she discloses

said incident to them. After disclosure of said information by victim, the informant took her to police station Naigaon and report came to be lodged for necessary action against the accused.

3] In the application, it is stated that accused is innocent and has not committed any offence as alleged by the victim. There is no evidence against accused on record. Investigation is already complete and Charge-sheet is filed vide Spl.Case No.69-2025. Neither any recovery is to be effected from the accused nor accused is in position to tamper with prosecution evidence. He undertakes to remain present as and when required by Court. In such circumstances, long incarceration of the accused is not justified. He is not having criminal antecedents. Hence, accused may be released on bail.

4] Ld. APP filed pursis bellow Exh.4 stating that investigating officer is transferred to another place, hence he cannot file reply. Charge-sheet is already filed. He orally opposed bail application. It is submitted that the offence is of serious nature. The possibility of repetition of offence cannot be overruled. Accused may tamper with the prosecution evidences. He has extended threats of dire consequences with the victim. Hence, accused shall not be released on bail.

5] Informant appeared and filed reply bellow Exh.5 and 6. In the reply dated 27/07/2026 she stated that accused may prove dangerous to the life of victim. Hence, accused shall not be released on bail. She did not state that victim is missing. However, in the reply dated 04/08/2026 she stated that victim is missing due to fear of accused. I have inquired with her whether missing report is filed, but she gave reckless answer. The investigation machinery reported that

no missing report came to be filed to their police station.

6] Heard Ld. Advocate for accused and Ld. APP for State.

7] Ld. Advocate for accused submitted that this is a second bail application filed after rejection of earlier bail application which came to be rejected on 10/10/2025. Successive bail application is maintainable. On said point, he placed reliance on the authority in the case of **Ashok Pundlik Gawade Vs. State of Maharashtra reported in 2019 SCC Online Bombay 155**. I have through the ratio cited in this authority. It is observed therein that it is well settled principle of law that successive bail application can be entertained only when there is substantive change in facts situation or circumstances during the period between the two applications.

8] To my mind, the above authority has enlightened the settled principle of law that successive bail application can be entertained in case of substantive change in the circumstances. Now, it is necessary to see whether there is substantive change or not. It transpires that earlier bail application was filed during course of investigation. It was rejected due to incomplete investigation. Now there is change in the circumstances i.e. completion of investigation. Hence, I hold that the authority cited supra is applicable here and present bail application is maintainable.

9] Secondly, it is stated that no realistic possibility of early conclusion of trial is disclosed by the prosecution. The continued incarceration is violative of Article 21 of Constitution and on said point, Ld. Advocate for accused placed reliance on the authority in the case of **State of UP though CBI Vs. Amarmani Tripathi, (2005) 8 Supreme Court Cases 21**. I have gone through the ratio laid down in

this authority. In para No.18 from this authority, the matters came to be considered in an application for bail are pointed out. It includes prima facie or reasonable ground to believe that accused had committed the offence, the nature and gravity of charge, severity of punishment etc.

10] Undoubtedly, it is settled principle of law that all factors as enumerated in para no.18 are the grounds to be considered for determination of bail application. It transpires in this matter that the offence is of serious nature and the punishment provided is the imprisonment for life, which means the imprisonment for the reminder of natural life. It shows the gravity of charge. Therefore, I hold that on said ground the applicant cannot seek bail.

11] However, I have gone through the authority cited by Ld. Advocate for accused in the case of **Syed Iftikhar Andrabi Vs. National Investigation Agency, Jammu, 2026 SCC Online SC 881**. Hon'ble Apex court has considered at length the interplay between prolonged incarceration, delayed trial, statutory restriction upon bail and constitutional guarantee of personal liberty under Article 21 of Constitution of India.

13] It is pertinent to note that I have gone through the reply given by informant vide Exh.6. She reported that victim is missing due to fear. Her life is at risk. Hence, accused shall not be released on bail. However, Court had asked the informant whether she has lodged missing report and why it is not yet lodged. She was reluctant to answer said query. later on she was asked to call the victim or lodged missing report. However, neither victim has been produced nor missing report is lodged by informant. The investigation

machinery informed that informant is not ready to lodge missing report to police station. The overall conduct of informant shows that she deliberately not produced the victim and not give her details to the Court. Apparently, it is visible that just to make out one ground for rejection of bail, it is stated that victim is missing, though missing report is not filed even insisted by Court and Investigation machinery. There are the circumstances which show that there is no realistic possibility of early conclusion of trial.

14] The charge-sheet is already produced. Accused is ready to abide with all conditions imposed while releasing on bail. He is local resident of Naigaon(E), Tal. Vasai, Dist. Palghar. Nothing remained to be recovered from the possession of accused. Hence, no purpose would be served by detaining accused in judicial custody.

15] It is argued on behalf prosecution that the present accused will tamper with evidence and he will abscond if released on bail and will pressurize the victim and witnesses and there will be repetition of crime, if present accused is released on bail, can be taken care of by imposing stringent conditions. Hence, having regard to the facts and circumstances of the case, it would be proper to release the present accused on bail with stringent conditions imposed. Hence, I proceed to pass the following order.

ORDER

1]	Application is allowed.
2]	In C.R. No. 21/2025 of Naigaon Police Station for the offences punishable under Sections 65(1), 351(2) of BNS, 2023 and Sec.4, 12 of POCSO Act, 2012, applicant/ accused Noor Ali Chote Miya be released on bail upon his executing P. R. Bond of Rs.50,000/- (Rs. Fifty Thousand only) with one surety in the like amount on following conditions;

	i) he shall attend the concerned police station in between 11:00am to 01:00pm on every Tuesday till filing of the Charge-sheet and as and when called by the I.O. under written intimation. i) he shall attend the Court on each and every date punctually, unless exempted. ii) he shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade him from disclosing such facts to the Court or to any Police Officer. iii) he shall not tamper with the evidence of prosecution in any manner. iv) he shall not make contact in any manner with the informant and witnesses. v) he shall furnish his current address proof and mobile phone number while furnishing surety. vi) he shall not enter in the vicinity of the house of victim till conclusion of trial. vii) he shall inform his change address to the concerned police station and to this Court while furnishing surety. viii) he shall not enter the Entire Naigaon Area till further order.
3]	The prosecution/victim will be at liberty to file an application for cancellation of bail, in case, the accused violates any of the above mentioned conditions.
4]	Inform concerned police station accordingly.
5]	Accused be informed about this order by e-mail through Superintendent, District Prison, Thane.
	(Order is dictated and pronounced in open Court).

Vasai.

Date : 14/08/2026.

(A. H. Kashikar)

Addl. Sessions Judge, Vasai.