

MHAU010051982026



ORDER BELOW EXH.4 SPECIAL CASE NO. 258/2026

The State Vs. Ashok Sitaram Wagh

1] This application is preferred by applicant/accused under Section 483 of Cr.PC. for regular bail in connection with Crime No.105/2026 registered with Police Station Ajintha, Taluka Sillod, District Chhatrapati Sambhajanagar, for the offence punishable under sections 137(2), 64(1), 69, 351(2) of Bharatiya Nyaya Sanhita, 2023 and section 4 of the Protection of Children from Sexual Offences Act 2012.

2] **In brief, application is as follows :-**

Crime is registered on 12.05.2026. Applicant/accused is arrested on 14.05.2026. Charge-sheet is filed on 16.07.2026. No criminal antecedents. Missing complaint is lodged by informant / grand-mother of victim. Victim is 15 years 5 months old.

Accused is claiming bail on following grounds :-

- i Since last one year accused and victim are having love-affair. Victim on her own left the house. Accused did not establish physical relations with victim on the pretext of marriage. Last incident was not disclosed by victim to anyone.
- ii As per MLC, victim is 16 years old. Accused forced victim, is not mentioned in the MLC. False case is lodged against him.
- iii Mobile and motorcycle of accused are seized by the Investigating Officer.

- iv Complaint is lodged on the basis of suspicion.
- v Statement of witnesses are recorded, spot panchanama is prepared, medical examinations of victim and accused is done and the charge-sheet is filed.
- vi His earlier B.A. No. 1041/2026 is rejected on 13.06.2026 on the ground that investigation is incomplete and accused will pressurize prosecution witnesses and will give threat to informant.
- vii Accused is poor agricultural labour. He is only earning member of his family. He is ready to abide conditions imposed.
- viii Accused has not committed the offence. He has no concern with the incident. He is falsely implicated in this case.
- ix No independent eye witness to the incident.
- x He is innocent. He is serving in a private company.
- xi He is permanent resident of Sillod Taluka.
- xii He is JCB operator.

Hence, he prayed to allow the application for bail.

3] Learned advocate for applicant/accused relied on following citations :-

1. **Shubham Dilip Awasarmal Vs. The State of Maharashtra & anr., in Bail Application No. 877 of 2025 dated 14.08.2025 of Hon'ble Bombay High Court, Bench at Aurangabad.**
2. **Vijay Chand Dubey Vs. The State of Maharashtra & anr., in Criminal Bail Application NO. 3899 of 2024 dated 17.02.2025 of Hon'ble High Court of Bombay.**
3. **Faizan Wahid Baig Vs. State of Maharashtra, 2022 Legal Eagle 10009**

**4. Pramod Suryabhan Pawar Vs. The State of Maharashtra & anr.,
AIR 2019 Supreme Court 4010.**

4] Learned APP for State submitted say/reply on the application itself. It is submitted that, victim is only 16 years minor child. Though accused knowing this fact, still sexually harassed victim. Accused has committed serious and sensitive offence. Accused and victim are residing in same area. If accused is released, he will tamper with evidence and pressurize the victim and other witnesses. Hence, prayed to reject the application.

5] Victim filed her say on the application itself and given no objection to release the accused on bail.

6] Heard arguments of learned advocate Mr.Prakash S. Untwal for applicant/accused and learned APP Smt.S.S. Deshmukh for prosecution.

7] It is argued on behalf of applicant/accused that, contents of application may kindly be treated as his argument. Further, considering the citations relied by him, prayed to allow the application as prayed.

8] Citations have given binding value with a view that alike cases should be tried alike. While applying any preposition of law laid down in particular case we cannot ignore facts and circumstances under which said preposition of law came to be laid down.

9] Admittedly, first bail application for bail was filed by accused before filing of charge-sheet, same came to be rejected by order dated 13.06.2026 by my learned predecessor. In this premise, it is obligatory on the part of accused to show that from rejection of the first application what is the change in circumstance which enables him to claim the bail.

10] In argument advanced on behalf of the accused his learned advocate admitted that only change is that filing of charge-sheet. Case is filed under section 137(2), 64(1), 69, 351(2) of Bharatiya Nyaya Sanhita, 2023 and section 4 of the Protection of Children from Sexual Offences Act 2012. Filing of charge-sheet always cannot be treated as change in circumstance. It depends upon the facts and circumstances of each case. Perused charge-sheet. Prima-facie there is material against the accused. Hence, it cannot be said to be a change circumstance which enables accused to file second bail application as there is no change in material facts and evidence on record which prima-facie establishes the case against the accused. As such the accused could not establish the change in circumstances to file the application for bail second time after filing of the charge-sheet and claim the bail, therefore just because minor victim given no objection to release the accused, he is not entitled to release on bail. Hence, I proceed to pass following order :-

ORDER

Application is rejected.

Date: 11.08.2026

(**Swarnita B. Mahale**)
Special Judge-8 (POCSO Act),
Aurangabad.