



Order below Exh. 1 in
Criminal Bail Application No. 360/2026
(Nagesh Dattatray Bhise V/s. State of Maharashtra)
(Passed on 30/05/2026)

This is an application for pre-arrest bail under Section 482 of the Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with Crime No. 239/2026 registered with Jail Road Police Station for the offences punishable under Sections 64, 64(2)(i) of the Bharatiya Nyaya Sanhita, 2023 (for short "BNS"), Sections 4, 8, 12, 17, 21 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act") and Sections 9, 11 of the Prohibition of Child Marriage Act, 2006.

2) Shri. F. M. Patveghar, learned Counsel appearing on behalf of the applicant/accused would submit that the applicant/accused is the husband of the victim. They are happily residing together. However, FIR came to be lodged by alleging that the victim is minor and she was subjected to sexual assault by the applicant/accused. In fact, there is no such complaint by the victim or any other person. There was no intention to commit the offence. Investigation is practically completed. The applicant/accused is ready to co-operate further investigation, if any. Hence, he has requested to grant pre-arrest bail to the applicant/accused.

3) Per contra, Shri. D. M. Pawar, learned A.P.P. for the State submitted that the victim was only of 14 years at the time of marriage. She conceived pregnancy during her minority. It amounts to an offence under POCSO Act. The applicant/accused changed birth date of the victim and tried to show that she is major. He submitted that custodial interrogation of the applicant/accused is imperative. Hence, he has requested to reject the application.

4) The victim has filed her reply at Exh. 5. She has stated that the applicant/accused is her husband. She has begotten a child. The applicant/accused needs to be released on bail for growing said child.

5) In the present case, FIR came to be lodged by the officer of Child Marriage Prohibition Officer. She made inquiry with the victim wherein it was revealed that on 29/11/2023, her marriage was performed with the applicant/accused. Said marriage was fixed by parents and mediators. After marriage, she went to cohabit with the applicant/accused. They had sexual intercourse and she conceived pregnancy. On 29/09/2025, she begotten a child. She had taken treatment at Bhavanarushi Hospital, Solapur and delivered a child at Mitanshi Hospital, Solapur. On the basis of said information, the informant has lodged FIR with Jail Road Police Station.

6) During the course of investigation, statement of witnesses have been recorded. Documents pertaining to the

medical treatment of the victim have been collected. DNA samples have been collected. Investigation of the present case seems to be in progress.

7) The prosecution has strongly opposed the bail application on the ground that medical examination of the applicant/accused is necessary. So also, it is contended that DNA sample of the applicant/accused needs to be taken. No doubt, in sexual offence either under Section 64 of BNS or Sections 4 and 6 of the POCSO Act, competency of the accused person needs to be examined. So also, whenever there is a case that child is begotten out of sexual relationship, DNA samples of the victim as well as the accused needs to be taken. The question arises as to whether or not custodial interrogation is necessary for such medical examination and for extracting DNA sample. Answer to said question is definitely in negative because the accused can be directed to attend before the Investigating Officer who would cause to examine him and take his samples for DNA examination.

8) As stated earlier, material part of the investigation is completed. Nothing is to be recovered from the custody of the applicant/accused. It should not be forgot that the applicant/accused is the husband of the victim. It is not the case of the prosecution that there is matrimonial discord in between them. In such background, arrest of the applicant/accused would have repercussion not only against the applicant/accused, but also on victim and child. There is possibility that matrimonial bond

in between them may be disturbed. It would cause irreparable harm to the family of the victim. In the background of this pecuniary circumstances, it would not be justifiable to conduct custodial interrogation of the applicant/accused.

9) The applicant/accused is not having any criminal antecedents. Investigation in respect of other aspects of the case is already completed. As regard to medical examination and DNA sample, it can be done by directing the applicant/accused to attend concerned Police Station. As stated earlier, the victim is the wife of the applicant/accused. Refusal of bail might have adverse affect on her and on newly born baby. It would undue harassment of happily living couple. In the background of this peculiar circumstances, it would be just and proper to release the applicant/accused on bail on imposing conditions.

10) In the result, following order.

- 1) The application is allowed.
- 2) Pre-arrest bail application in connection with Crime No. 239/2026 registered with Jail Road Police Station for the offences punishable under Sections 64, 64(2)(i) of the Bharatiya Nyaya Sanhita, 2023, Sections 4, 8, 12, 17, 21 of the Protection of Children from Sexual Offences Act, 2012 and Sections 9, 11 of the Prohibition of Child Marriage Act, 2006 is allowed on following terms -
 - i) In the event of arrest the applicant/accused Nagesh Dattatray Bhise shall be released on bail on

furnishing his PR bond of Rs.50,000/- (Rs. Fifty Thousand only) with one surety of like amount.

- ii) He shall attend concerned Police Station on each Sunday from 11.00 am to 2.00 pm till filing of charge-sheet.
 - iii) In addition to above, the applicant/accused shall attend the concerned Police Station whenever called so that his medical examination shall be conducted and DNA sample would be collected. He shall co-operate for such medical examination and DNA test.
 - iv) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
- 3) Inform I.O./In-charge of the Jail Road Police Station, Dist. Solapur.

(Dictated and declared in open Court.)

Date : 30/05/2026.
Solapur.

(Jaydip J. Mohite)
Additional Sessions Judge,
Solapur.

CERTIFICATE

I affirm that the contents of this PDF file Judgment/Order are same word to word as per the original Judgment/Order.

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| (a) | Name of the Stenographer | : Sou. M. M. Kulkarni, Stenographer Grade-I |
| (b) | Court | : District Judge - 4, Solapur. |
| (c) | Date of Order | : 30/05/2026 |
| (d) | Order signed by the
Presiding Officer on | : 30/05/2026 |
| (e) | Order uploaded on | : 30/05/2026 |