

BEFORE THE ADDITIONAL SESSIONS JUDGE-11 (SPECIAL COURT)
NAGPUR

Special Case No.253/2026

State of Maharashtra through
P.S.O, P.S.Kalmeshwar

-Vs-

Tabrej Alam s/o Bhikhu Miyan
(Crime No.16/2026)

ORDER BELOW EXHIBIT 03

(Passed on 30.04.2026)

This is an application for bail under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (in short BNSS) for the offences punishable under Section 64(1), 64(2)(m), 138 of the Bhartiya Nyaya Sanhita 2023 (in short BNS) r/w 4 and 6 of the Protection of Children From Sexual Offences Act, 2012 (in short POCSO).

02. According to the applicant/accused, he has been arrested on 12.01.2026 in connection with the said offences on the basis of report lodged by mother of the victim. As per prosecution case, when complainant and other family members came to know that victim was not present in the courtyard, they searched nearby houses. One person told them that he had seen the victim near Mangrul Fata Petrol Pump at about 9.30 p.m. They rushed to the petrol pump. Thereafter victim returned to home. On inquiry, she told that when she was standing in the courtyard, the applicant compelled her to seat in his four-wheeler and threatened her. The applicant took her towards Dhamna Road. Thereafter he committed forcible intercourse with the victim twice. Therefore, the mother of the victim lodged report against the accused.

03. It is further submitted by the applicant that his previous bail

application was rejected prior to filing of chargesheet. However, now after filing of chargesheet, there is no need to detain the applicant in jail. The medical evidence shows that the victim is more than 18 years of age and she accompanied the applicant without any objection. There are no injuries on private part of the victim. There are photographs in the mobile phone of the applicant showing the victim and applicant together in a jovial mood. He is innocent and has been falsely implicated in the present case. He is ready to abide by all the terms and conditions. Hence, the application.

04. The IO and learned APP has filed say at Exh.5A and strongly opposed the prayer. The accused committed sexual intercourse forcefully against the will of the victim girl by giving false promise. The offence is serious and heinous. There is every possibility that he will induce, pressurise and threaten the victim and the prosecution witnesses which will be fatal for the prosecution. Hence, it is prayed to reject the application.

05. The victim has not filed separate written say but while interacting with the presiding officer, she opposed the prayer of the applicant.

06. Perused the record. Heard the learned APP and the learned counsel for the accused. According to the learned counsel for the accused, the victim was medically examined and dental as well as radiological tests show that she was at the verge of attaining majority. Moreover, no hue and cry was raised by her and she willingly accompanied the applicant which indicates that there was no force or compulsion but only at the instance of the parents of the victim false report was lodged. But now investigation is over and the applicant can

be granted bail on suitable terms and conditions. However, the learned APP has opposed the prayer contending that there is material to show that the victim is a child and she was taken by the accused without consent of the parents. So, offences are made out and considering the gravity and grievance of the victim and her family, no relief be granted to the applicant.

07. The offences alleged against the accused are pertaining to rape, repeated rape, abduction, penetrative sexual assault and aggravated penetrative sexual assault. The maximum punishment is life imprisonment or rigorous imprisonment for 20 years. Earlier bail application of the applicant was rejected and at that time also some photographs were relied on by the accused, but the same could not be got verified from the victim and the prosecution. However, here also the applicant has placed on record some photographs at Exh.6 and those photographs have not been specifically disputed by the victim or the investigating agency. So prima facie the applicant has not disputed his presence on the relevant date at relevant place, but it is his stand that the victim herself had willingly accompanied him.

08. The victim is said to be aged about 16 years and in document styled as 'fee card', her date of birth is 12.10.2009 but in absence of birth certificate or school record, the investigating agency itself sought ascertainment of the exact age of the victim. As per ossification test, the estimated age of the victim was determined to be 18-25 years. From radiological test, the age of bone of the victim was found to be 16-17 years whereas estimated dental age of the victim is 18-21 years. Now it is a matter of trial whether the victim was a child within the meaning of Sec. 2(d) of the POCSO Act. But it seems that the

victim was having some understanding and it is gathered that at the time of hearing on bail application on the last date as well as on earlier occasion the victim was always surrounded by her mother and when the personal interaction was made, she was also quite reluctant to express her opinion about her decision whether to oppose or not the prayer of bail. The photographs also prima facie show that the victim was well acquainted with the accused.

09. Definitely there is no question of presuming consent of the victim for alleged sexual intercourse. However, after filing of chargesheet and considering the fact that the accused was doing private work as a driver and earning member of his family, it would not be proper to detain him in jail for indefinite period or till conclusion of trial when charge is also not framed. So, in my opinion, if the applicant is released on some stringent condition, it will ensure that personal liberty of the accused is not curtailed and at the same time, safety and well being of the victim can also be taken care of. Hence, I am inclined to enlarge the applicant on bail. Hence, I pass the following order.

ORDER

1. The application is allowed.
2. The applicant/accused **Tabrej Alam s/o Bhikhu Miyan** shall be released on executing P.R. Bond of Rs. 60,000/- and furnishing one surety in the like amount.
3. The applicant shall furnish details i.e. identity proof and mobile numbers of his two blood relatives as well as permanent and temporary addresses of himself.
4. The applicant shall not enter within the vicinity of the locality where the victim and her family members resides.
5. The applicant shall not threaten, induce or pressurise the victim, and the prosecution witnesses.

6. The applicant shall not contact with the victim in any manner either directly or indirectly including social media platforms.
7. The applicant shall attend each date during trial.
8. Copy of the order be communicated to the Superintendent of jail, Nagpur through email.

Dt.- 30.04.2026

(S.S.Maudekar)
Additional Sessions Judge-11,
Fast Track Special Court/
POCSO Court,Nagpur.

CERTIFICATE

I affirm that the contents of this P.D.F file of order are word to word, as per original order.

Name of Stenographer : Sau. M.R.Yelwatkar