

IN THE COURT OF SESSIONS AT AKOLA.

(Presided over by Smt. S.R. Pahade, Addl. Sessions Judge)

Spl. POCSO Case No. 03/2025

State of Maharashtra

Vrs.

Nagesh Vinod Umale

ORDER BELOW EX.07

[Passed on 18.02.2025]

1. Accused-Nagesh Vinod Umale has filed present application for bail under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 pending the trial.
2. As per prosecution case, the victim aged about 13 years, 8 months. Accused used to follow her while she was proceeding to school and he committed physical relations with her for several times.
3. The applicant has filed application with contention that the applicant/accused came to be arrested on 26.11.2024. False allegations are made against the applicant. There is delay in lodging FIR. There was love affair between applicant and prosecutrix. The complainant and her husband had opposed love-affair therefore, they have concocted a false story against the applicant. The custodial interrogation of the applicant is over. Nothing is to be seized from applicant. The applicant is ready to furnish surety to the satisfaction of the Court. The applicant is also ready to abide the terms and

conditions imposed by the Court. On these lines, applicant has prayed for bail.

4. Prosecution has opposed the application vide reply (Exh.09). The offence is serious. Applicant, prosecutrix and witnesses are residing in same area. There is possibility of tampering prosecution evidence and threatening witnesses from the applicant. The applicant will abscond if released on bail. On these lines, prosecution has prayed to reject the application.
5. The victim was called. She has filed her reply at Exh.08. She has stated that the applicant is staying near to her house. She is taking education in 9th std. The applicant will harass her and will repeat offence. There is danger to her life and her family from applicant/accused. On these grounds, victim also opposed the bail application.
6. Heard Ld. Advocate Mr. Dildar Khan for the applicant/accused and Ld. SPP Shri Fundkar for the State. I have also gone through the reply filed by the prosecution and the charge-sheet as well as documents filed by the applicant today.
7. The applicant/accused is charge-sheeted by Balapur Police Station for the offences punishable under Sections-64, 64(2)(m), 65(1), 78, 333 of Bhartiya Nyaya Sanhita, 2023 and Sections-4, 5, 6, 8 & 12 of POCSO Act. The charge-sheet prima-facie shows sufficient material against the applicant to

show that applicant/accused has committed penetrative sexual assault upon the victim- a child of 13 years,08 months old.

8. The accused has relied upon the observations of the Hon'ble Bombay High Court in the case of Vishal Omprakash Verma Vrs. The State of Maharashtra & Anr., 2021 ALL MR (Cri) 187. Observations therein relate to the victim who was 15 years of age and had love affair with the accused. However, the facts in present case would considerably adverse from those in said case. The victim here is not even 15 years of age, but was less than 14 years of her age. Any maturity or understanding of consequences of such acts cannot be attributed to such minor aged child. In the statement recorded under Section-183 of BNSS, 2023, the victim has specifically stated before the Judicial Magistrate First Class that the accused has committed forcefully physical relations with her. As such, the circumstances clearly make out the case which was not of any matured or conscious decision on the part of tender aged minor girl to have any type of relationship with the accused. Hence, the observations, with due respect, are not applicable in favour of the accused in this case.
9. The offence is serious and therefore, this is not a fit case to exercise discretion in favour of the applicant/accused. Therefore, I hold that the

applicant has failed to make out the case for grant of bail. With this, I proceed to pass the following order.

ORDER

Application is hereby rejected

Date :18.02.2025

[Smt. S.R. Pahade]
Additional Sessions Judge,
Akola.

Certificate

I hereby certify that the contents of this PDF file are same word for word as per original order:

Name of Steno : Shamim Sayed
Court's Name : District Judge-2 & A.S.J.,
Akola
Date : 18.02.2024
Signed by PO : 18.02.2024
Uploaded on : 18.02.2024