

MHAK010014482025



SESSIONS CASE NO.58/2025.

(State of Maharashtra Vs. Sanju Kondbaji
Bulbule)

Applicant : Sanju Kondbaji Bulbule

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**ORDER BELOW EX.05.**

( Dated : 04.11.2025 )

Applicant Sanju Kondbaji Bulbule has sought bail under S.483 of Bharatiya Nagarik Suraksha Sanhita, 2023 in connection with crime no.33/2025 registered with Pinjar police station, Tq. Barshitakli, Dist. Akola for the offence punishable under S.64(2)(k), 332 of Bharatiya Nyaya Sanhita, 2023.

2) Brief facts of the prosecution case are as under ;

On 13.2.2025, informant lodged FIR. Victim is her 27 years old daughter. She suffers from severe mental illness since birth. On 12.2.2025, informant went to the river to wash clothes. When she returned home, she found one motorcycle parked near the home. House door was closed. Informant entered the home from another door. She found the accused pressing breasts of the victim. He was naked. Victim was naked. Accused was lying on victim and she was crying. Accused fled away. Informant called her sister-in-law and clothed her daughter. In the evening, victim was touching her private part and was crying. She invited attention of the informant to her private part. However, as no transport vehicle was available in the night, informant took the victim to police station on next day and lodged FIR. Accused was arrested on 13.2.2025. Since then, he is in custody.

3) State has opposed bail application on various grounds.

4) Learned advocate Shri R. P. Agrawal for the applicant has submitted that this is first bail application of the accused since registration of offence. Accused is cousin brother of victim. Victim was not taken to hospital or police station on the same day. Reason of non availability of vehicle is not believable. When victim can't speak, mother's version is doubtful. Applicant is arrested on 13.2.2025. His further custody will be pre-trial conviction. Applicant is local resident. He is ready to abide by conditions of bail.

5) Learned A.P.P. Shri K. B. Khot has submitted that the offence is serious in nature. S.64(2)(k) of the BNS is applicable. As the accused is relative of the victim, matter becomes more serious. Informant is eye witness of the incident. Absence of injury to victim does not mean that offence did not occur. Victim was crying and complaining of pain by pointing to her private part. The reason for delay in lodging FIR was vehicle was not available to the informant. If accused is granted bail, there is likelihood of tampering and absconding. He has strongly opposed the application.

6) Informant and victim have appeared in the matter. Informant has strongly objected for granting bail to the applicant / accused. Victim is mentally challenged. Accused exploited the victim. It is submitted that there is apprehension of harassment and threats if bail is granted.

7) Shri Agrawal has submitted that this is very first bail application since registration of the offence. This submission is factually incorrect. This court considered and rejected earlier bail application of the accused bearing Criminal Application (BA)

No.171/2025 on 25.3.2025. Perhaps, Ld. Advocate might not be aware of the same as it was filed by another Ld. Advocate. But this is not the first bail application.

8) Shri Agrawal has raised doubt about the reason for delay i.e. non availability of vehicle in the night. This submission is not acceptable for more than one reasons. Firstly, the reason is mentioned in FIR. In the evening/night of the incident, victim was pointing to her private part and was crying. So by that time, informant might have realized gravity of the matter and due to non availability of vehicle, approached the police on next day. Secondly, victim is suffering from some mental disability and accused is cousin of the victim. Naturally parents in such case have to think a lot before taking any step particularly setting criminal law in motion which is irreversible process. So informant cannot be faulted for considering pros & cons before lodging FIR.

9) As far as absence of fresh injury on private part is concerned, it does not establish that no penetrative sexual assault was committed. Medical Examination Report shows that old hymenal tear was present. This might be the reason for absence of fresh injury on private part. Furthermore, if the incident occurred on plane surface in a house, there is no possibility of injury on posterior body parts. Hence, this cannot be a conclusive pointer towards innocence of accused.

10) Though accused is called as cousin of the victim by Shri Agrawal, from FIR he appears to be the brother of informant's maternal aunt. Nevertheless, he is relative of the informant and victim. It is the prosecution case that victim is suffering from some mental disability since childhood.

Considering both these aspects, offences under S.64(2)(f) and 64(2)(k) are prima-facie attracted. The offences attract punishment of imprisonment for life which shall mean imprisonment for remainder of that person's natural life. This shows that legislature considers seriousness of such offences.

11) Informant saw the accused lying on the person of victim and both were naked. Accused was pressing breasts of the victim. The fact that victim was crying shows that she was not willing party in any manner. She registered her resistance by crying and not agreeing with the conduct of the accused. Subsequent conduct of the victim pointing pain at her private part prima-facie shows penetration. Thus, prima-facie ingredients of the offence of rape are made out. Accused took undue advantage of the situation of the victim. In such case, he does not deserve bail. Filing of charge-sheet itself is no change in circumstances. Considering nature of allegations against the accused and condition of the victim as well as possibility of tampering, accused does not deserve bail. This is not fit case to grant bail to the accused. Hence, following order.

**Order**

Application is rejected.

[ A. D. Kshirsagar ]

Date:- 04.11.2025.

Additional Sessions Judge, Akola.