

IN THE COURT OF SESSIONS AT AKOLA.

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

Spl. POCSO Case No. 202/2024

**State of Maharashtra
Vrs.
Nitin Sardar and others**

Applicant:- 1] Nitin Manik Sardar.
2] Vinod @ Vishal Manik Sardar

ORDER BELOW EX.12
[Passed on 06.05.2025]

1. Accused/applicants - Nitin Manik Sardar and Vinod @ Vishal Manik Sardar have filed application for bail under Section 483 of Bhartiya Nagarik Suraksha Sanhita, 2023 for the offence punishable under Sections-64(2)(f)(m), 65(2), 68(a), 74, 75 of Bhartiya Nyaya Sanhita, 2023 and Sections-4, 5(l), (m), 6,8,9(l)(m) and 10 of POCSO Act in Crime No.291/2024 pending the trial.
2. The applicants have filed application with contention that all the accused came to be arrested on 22.10.2024. False allegations are made against them . There is delay in lodging FIR. The age of applicants are 28 and 26 years. Now the charge-sheet is filed and therefore, custody of applicants are not required. The applicants have no concerned with the alleged offence. There is inconsistency in the statement of victim and in FIR. The applicants are young aged

person. They have no criminal antecedents. All the male members of family are in Jail. The examination of victim of 10th std. is over. She is residing at the house of another relatives. At the time of medical examination, no injuries found on the person of the victim. The punishment for the alleged offence is not death sentence. The custody of the applicants are not necessary. The applicants are ready to furnish surety to the satisfaction of the Court. The applicants are also ready to abide the terms and conditions imposed by the Court. On these lines, applicants have prayed for bail.

3. Prosecution has opposed the application vide reply(Exh.16). It is submitted that the age of victim is 17 years. There is possibility of causing injury from the applicants to witnesses and victim if he released on bail. The applicants are relative of the victim. The victim is taking education in 10th std. There is possibility of tampering of evidence. On these lines, prosecution has prayed to reject the application.
4. The victim was called. She has filed her reply at Exh.14. She has stated that she has no objection to release the applicants on bail. The wife of accused No. 2 is suffering from illness. There is nobody to take her in hospital.
5. Heard Ld. Advocate for the applicants/accused and Ld. APP 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.

6. The applicants/accused are charge-sheeted by Mana Police Station. As per prosecution case, the victim was staying at the house of accused as her parents were staying separately. Her mother has solemnized second marriage. When the victim was in 7th std. accused/applicant No. 1 -Nitin touched her breast and private part. When she was in 8th std., accused – Nitin committed physical relations with her. Present applicants and other accused have also committed sexual assault against her. The incident was narrated by the victim when some police came in School for inquiry with the students.

7. As per charge-sheet, it reveals that accused-Nitin inserted finger in the private part of the victim and committed physical relations with her. Accused No. 2-Manik and accused No. 1-Vinod @ Vishal touched breast and private part of the victim and outraged her modesty. As such, the allegations against the accused are serious. The accused are close relatives of the victim. On perusal of medical examination report of the victim, it reveals that she has stated to medical officer that the accused sexually assaulted her. In the statement recorded under Section-183 of BNNS, the victim stated before Ld. Judicial Magistrate First Class

that accused-Nitin committed physical relations with her and accused – Vishal had sleep on her person for one time. He kissed her and touched her private part. On 18.10.2024, Vishal had sleep on her person and put her hand in his pant. As such allegations against the applicants are serious. The applicants/accused are relatives of the victim. The recitals further prima-facie shows that the victim has disclosed incidents of sexual assault at the hands of present applicant. She has made specific allegations against the applicants in her statement recorded by police and Ld. JMFC.

8. Thus, the charge-sheet prima-facie shows sufficient material against the applicants to show that they have committed sexual assault upon the victim- a child of 17 years old for more than once. The offence is serious.
9. At the time of hearing of first application of accused No. 2 for bail, the victim had strongly opposed the application on the reason that the accused No. 2 would repeat the offence and would pressurize her. Now at the time of hearing of this application, she is giving no objection for releasing the applicants on bail. Itself shows that there might be threatening or pressurizing the victim at the hands of the applicants therefore, she has given no objection. Considering the gravity of offence and the punishment, I come to conclusion that this is not a fit

case to exercise discretion in favour of the applicants.
Therefore, I proceed to pass following order:-

ORDER

Application is hereby rejected.

Date :06.05.2025

[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 : 06.05.2025
Signed by PO : 06.05.2025
Uploaded on : 07.05.2025