

MHBI180001222026



Cri. Bail Application No. 53/2026

Rakesh S/o. Atul Gaisamudre @ Rokki

Mahendra Hoke

Vs.

State of Maharashtra

:: ORDER BELOW EXH. 1 ::

Anticipatory bail application under Section **482** of the B.N.S.S. in crime No. 35 of 2026 of **Dharur** police station for the offences punishable under sections 74, 79, 118(1), 115(2), 352, 351(2), 351(3) of the Bharatiya Nyaya Sanhita, 2023 (BNS) and sections 8, 12 of POCSO Act.

Brief contents of this application and argument of the applicant are-

1. The minor girl lodged FIR alleged that on 09-02-2026 at about 4.00 p.m. her younger sister went to fill water at the tap which was near to the house. Where accused came there and asked her he had seen her videos and further said that if you have so much interest in it then come with me by saying this he went away. when her sister came to home she has narrated this incident to her. Accordingly, both went to his house to ask him why he did so. But this applicant started to abuse them, accordingly, they said don't abuse them, but he caught her hands and dragged her, he also assaulted her with stick on her leg and he caught cloths of her sister and pushed her, and assaulted her with slaps. He further raised towards them with stone thereby both were frightened and run towards house. When their parents came they disclosed said facts to their parents. When their parents

went to the house of accused and asked him why he did so, then again applicant abused them and bite to the finger near to thumb of left hand of their father and passed threat that if they will lodged complaint to the police station against him, then he will also lodge complaint against them and threatened to cause death. Accordingly, they lodged FIR to the police station it was registered as per above offences. Accused sought bail on the grounds that, he is innocent, he has not committed any offence, he is falsely implicated in this offence, there is no prima facie material against him, these are false allegation against him, these offences not attracted as per allegations in the FIR. It is further stated that, custodial interrogation of the applicant not required, he is permanent residence of Dharur, there is no possibility of absconding of the applicant, there is no criminal antecedent against this accused, he is ready to abide conditions whichever imposed against him. The learned Advocate for the accused has relied upon the decisions in the case of **Anant Shivaji Nagargoje Vs. The State of Maharashtra and Anr. Decision of the Hon'ble Bombay High Court (Aurangabad bench) dated 04/03/2022**, wherein it is decided that if the physical custody of applicant may not required for purpose of investigation and purpose would be served if the attendance is given, then the interim protection by the way of interim bail order can be granted. Second is **Fardinulla S/o. Fahinulla Vs. State of Maharashtra,**

Decision of the Hon'ble Bombay High Court (Nagpur bench) dated 14/10/2019. Wherein it has been held that anticipatory can be granted if the custodial interrogation is not required.

2. The informant filed pursis at Exh. 8 and requested to read say of prosecution as of her say.

Say of prosecution at Exh. 7, Victim and argument.

3. The nature of offence is serious one and against minor woman child, there are sufficient material against the accused about the commission of offences. If the applicant is release on bail then he will tamper the prosecution's evidence and pressuring the victim and committing same nature of the offences. With this request to reject this application.

Reasoning and Order

4. As per the FIR it was lodged by the victim girl who is minor and her sister is also minor about the outraging modesty. Alleged that applicant asked to younger sister he saw her videos, if she is so much interested in it , then come with him and he caught her cloths and dragged her. So there is prima facie material against the applicant about committing offences of outraging the modesty of women and under the POCSO Act. The maximum punishment to the offence section 8 of POCSO Act is may extent to 5 years which is less than 7 years, so section

35 of BNSS is applicable and protection already provided under this act. In the case of **Anant Nagargoje** cited above, this interim protection was granted to the applicant at the interim stage with conditions, however it is not applicable here as applicant argued on final application. On the contrary, it has been held in para No. 7 that perused contents of FIR the act alleged against applicant as he had caught hold of hand of the victim and expressed his feelings for her, but that does not mean the boy or man forcibly assert his feelings on girl or women, particularly when she is minor, he out not to have insisted that girl should accept his proposal of love, he cannot asked for sexual favour for minor girl and this cannot be justification of such act. Accordingly, in the case in hand as per the contents of FIR this applicant had asked to minor girl to come with him and he caught hold her cloths and dragged her. Thus fact of this case and in the decided case is different. In the decision of **Fardinulla S/o. Fahinulla** cited above, the facts was accused was following minor girl and insisting that girl should keep relationship with him accordingly, it has been held that the custodial interaction of this applicant is not required and in that circumstances, anticipatory was granted. But here in this case, nature of offences serious one this applicant used bad words to the minor girl, assaulted her and caught her cloths and dragged her. So the facts of this decided case and case in hand is different. It prima facie not found

any falsification of the allegations against this accused. In this facts and circumstances this application has to be rejected.

Therefore, pass following order.

ORDER

1 Application is rejected.

(Pronounced in open Court)

Place : Kaij

Date : 02/04/2026.

(**Rahimat K. Shaikh**)

Additional Sessions Judge

Kaij.

CERTIFICATE

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

Dictated on : 02.04.2026

Transcribed on : -----

Checked & signed on : 02.04.2026

sd/-

(S. S.Nakhate)

Stenographer Grade-3,