

MHKO010023202026



ORDER BELOW EXH.3 IN SPECIAL CASE NO.124/2026

(State of Maharashtra Vs. **Imam @ Rehan Amir Shaikh**)

1] Perused application and say. Heard Advocate for CCL and APP for State. Notice issued to first informant and victim. Perused reply filed by them. Heard them. Perused affidavit filed on behalf of CCL in respect of compliance as per guidelines.

2] This is third bail application filed under section 483 of the Bharatiya Nagarik Suraksha Sanhita, (Hereinafter referred as 'BNSS'), Section 12 of Juvenile Justice (Care and Protection of Children) Act by CCL in respect of his detention in C.R. No.22/2026 registered at Laxmipuri Police Station for the offences p/u/s. 64(1), 228, 229, 3(5) of the Bharatiya Nyaya Sanhita, 2023 and under Section 4, 6, 8, 12 and 21 of the Protection of Children From Sexual offences Act (Hereinafter referred as POCSO Act) First informant i.e. LPC Malage lodged report stating that on 28/1/2026 when she was on duty, police Station In-charge asked her to go CPR Hospital, Kolhapur where minor victim aged about 17 years 10 months was 4 months pregnant. First informant went in CPR Hospital and enquired with victim. Victim narrated that there was love affair between her and accused Sajid and she told about the same to her family members, they consented for marriage. On 6/7/2025, their marriage took place as per Muslim rites. After marriage accused Sajid repeatedly kept sexual relationship with her and she became pregnant. During investigation and after recording supplementary statement of victim, it revealed that she was acquainted with CCL i.e. applicant aged about 16 years 10 months, there was love affair between them. In September 2025, CCL kept sexual relationship with her when nobody was in her house. They both were going to marry after attending

majority. They used to meet each other. Victim missed her menstrual cycle and was suffering from stomach pain. She told about the same to CCL. He and his mother took victim to hospital where it revealed that she was pregnant. CCL told her that if report was given against him he would not get job therefore victim narrated falsely to police that her marriage took place with her cousin i.e. accused Sajid and she was pregnant from him, actually no marriage took place between her and accused Sajid.

3] According to applicant/CCL, he is falsely implicated. He has not committed alleged offences. Ingredients of alleged offences are not attracted. His first bail application was rejected by PMJJB as investigation was going on and second bail application before PMJJB was rejected as Board has passed order to treat CCL as adult. Now due to filing of charge-sheet further detention of CCL in Observation Home is not required. CCL is 17 years old and taking education. His career will spoil, if he remained in Observation Home for a considerable period. He is resident of Kolhapur. He has no criminal antecedents. He is ready to abide conditions and prayed to release him on bail.

4] APP, I.O., (SJPU) and first informant objected application on the grounds that though charge-sheet is filed, CCL committed sexual intercourse with minor victim, she became pregnant. CCL asked minor victim to conceal his act. Therefore there is gravity of offence and risk to life of victim. CCL will pressurize victim, witnesses. There is possibility of tampering prosecution evidence and repeating act. So they prayed to reject application.

5] Allegations against the CCL are serious. In FIR filed by LPC she stated what victim told to her and at the time of filing FIR victim made allegations against her cousin accused Sajid that with consent of relatives, he married with her, repeatedly kept sexual relations and she became pregnant. When supplementary statement of victim was recorded, victim stated about acquaintance, love affair between her and CCL, CCL kept sexual relationship with her in her house and they were going to marry. They were meeting

each other. When she missed her menstrual cycle, CCL took her to hospital and pregnancy was detected. At the instance of CCL she falsely stated to police about her marriage with accused Sajid and pregnancy found him. Advocate of CCL submitted that it is case of love affair and due to filing of charge-sheet further detention of CCL is not required. Second bail application was rejected by PMJJB as CCL was treated as adult.

6] Advocate of CCL relied on authorities cited in **XXX Vs. State by Women Police Station, Chamarajanagara in Cri. Petition No. 9582 of 2024 dt. 24/10/2024** in which offences u/s. 376(2)(n), 376(3) etc. of IPC and Sec. 4,6 of POCSO Act were levelled. Victim aged about 13 years was pregnant of 5 months from CCL. PMJJB rejected bail application of CCL. Case was referred to Special Court. Provisions of Section 12, 18(3) of JJ Act, were discussed. It is observed by Hon'ble High Court petitioner was in custody from 24/7/2023 and trial is yet to commence. Though petitioner filed application before Special Court u/s. 439 of Cr.PC., it was required to be considered u/s,12 of JJ Act. Considering provisions of Section 12 of JJ Act and other facts petitioner was released on bail with conditions.

(ii) **Shubham @ Bablu Milind Suryavanshi Vs. The State of Maharashtra in Bail Appln.No.2282 of 2021 decided on 21/10/2022** in which CCL aged about 17 years 11 months was charged for committing murder. Provisions of Section 12 of JJ Act were discussed. By preliminary assessment case was transferred to Children Court. Mental health report of CCL was obtained which shows he understands seriousness of allegations. It is observed by Hon'ble Bombay High Court that CCL was taking education. Probation Officer report revealed that CCL is learning Carpentry work and feed back from teacher is positive. Merely he is directed to be tried as adult he cannot be denied benefit of Section 12 of JJ Act. He has right to be united with his family. Father of CCL is ready to take his custody and he was released on bail with conditions.

(iii) **X S/o. Ashok Kumar Vs. State of Rajasthan in S.B. Criminal Revision petition No. 730/2023 decided on 2/2/2024** in which offences u/s. 302, 201 of IPC and 3(2)(v) of SC and ST Act were levelled. PMJJB and Special Court rejected bail application of CCL. Provisions of section 12 of JJ Act are discussed that irrespective of nature or gravity of offence bail cannot be denied where there appears reasonable grounds for believing that release is likely to bring him in the association with known criminal, physical, psychological danger and would defeat ends of justice. Considering all the facts CCL was released on bail with conditions.

(iv) **Child in Conflict With Law G Vs. State of Madhya Pradesh in Criminal Revision No. 6044 of 2025, decided on 15/1/2026**, in which offences u/s. 137(2), 140(4) of BNS and Section 6 of POCSO Act were levelled against CCL. PMJJB and Special Court rejected bail application of CCL. Social Investigation report discloses that there is no prior exposure of petitioner to criminal activities and he was released on bail with conditions.

7] Ratios laid down in all above cited rulings are noted and considered. As per facts of this case, victim is more than 17 years, she has attained age of understanding. After incident which took place in September 2025, she has not raised alarm and she was meeting CCL. Only after detecting pregnancy she took name of accused No.1 and then she disclosed other facts relating to CCL. APP for State submitted that due to concealment of material facts by victim at the instance of CCL, due to pregnancy of victim there is gravity of offence and there is possibility to tamper prosecution evidence.

8] As per pursis filed at Exh.6, Advocate of CCL intimated that bail application of CCL be treated under provisions of Section 12 of JJ Act. Moreover co-accused No.1 Sajid is released on bail. As per record second bail application of CCL was rejected by PMJJB by treating him as an adult and thereby committing his case to Children Court. Moreover victim and her mother filed affidavit stating that they have no objection to release CCL on

bail. Report of Superintendent of Observation Home shows that CCL is in Observation Home since 31/1/2026, counselling was done and there is positive change in his behaviour. He is ready to pursue his study and his behaviour is good. As per report of Probation Officer CCL studied upto 10th Std., his father is doing Mason work and mother works as maid. Age, ignorance of law, poverty, attraction of opposite sex might be the reasons behind the act. Neighbour and Corporator expressed good opinion about CCL and his family members. As per affidavit on behalf of CCL he has no criminal antecedents. Due to filing of charge-sheet there is change in circumstances. Trial will take time. Personal custody of CCL is not required. CCL is 16 years old and taking education. His career will spoil if he remained in Observation Home for unknown period. He is resident of Dist. Kolhapur. His presence can be secured.

9] No doubt in view of allegations, manner of offence, there is gravity. But provisions of Section 12(1) of JJ Act are to be considered and only due to gravity of offence it is not proper to deny bail. CCL is in Observation Home since about 6 months. Accused No.1 is released on bail. The primary responsibility of care, nurture and protection of child shall be that of family. Every child shall have right to be re-united with his family at the earliest and to be restored to same socio-economic and cultural status. Considering age of CCL it is necessary to give him an opportunity to improve his behaviour. In view of all above reasons, if CCL is released on certain conditions, it will meet the ends of justice and following order is passed :-

ORDER

- 1) Application is allowed.
- 2) Applicant **Yasin @ Rehan Amir Shaikh** be released on bail on his furnishing P.B. and S.B. of Rs.50,000/- along with one surety in the like amount, on following conditions;

- (i) Mother/Guardian of applicant/CCL is hereby directed to file undertaking contending that she will take proper care of applicant in future and will prevent him from joining any criminal activities in future.
- (ii) Mother/Guardian of applicant is hereby directed to file undertaking contending that she would take care that applicant shall not meet, threat and pressurize to victim and witnesses, shall not repeat the offence.
- (iii) Mother/guardian of applicant shall furnish undertaking that applicant shall pursue his studies and will not be allowed to waste his time in unlawful activities.
- (iv) Applicant and his mother shall report to Probation Officer, Kolhapur once in every three months and Probation officer shall do the counselling.
- (v) Probation Officer shall keep the strict vision on the activities of applicant and regularly draw up his social investigation report which would be submitted to Court.
- (vi) Applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the accusation against him so as to dissuade them from disclosing such facts to the Court or to any Police Officer.
- (vii) Applicant shall not meet victim and tamper the prosecution evidence, witnesses in any manner and shall attend the Court.

Dt. 24.07.2026.

(Smt. R.V. Adone)
Additional Sessions Judge,
Kolhapur.

Certificate

“ I affirm that the contents of the PD.F File order are same word for word as per original order.

Sd/-

[A.A.Patil]
(Stenographer G-1)