

MHNS070020562019

Sessions Case No. 185 of 2019

The State of Maharashtra
Vs
Shahid Khan Ismail Khan

ORDER BELOW Exh.133
(Passed on 15/12/2025)

1. This is successive application for bail under 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 (Old Section 439 of the Code of Criminal Procedure, 1973), for grant of regular bail to accused who is charge-sheeted for the offence p/u/s 363, 366-A and 376(1) of the Indian Penal Code and Section 4 and 8 of the POCSO Act.

2. Ld. APP for the State opposed the application by filing written say of I.O. at Exh.134.

3. Notice of this application was also issued to the informant/victim. She appeared through her Ld. Advocate and opposed the bail application by filing her written say at Exh.137.

4. Heard, Shri. K.G. Ansari, Ld. advocate for the accused, Shri. S.K. Sonawane, Ld. APP for the State/Respondent and Shri. L.G. Surase, Ld. Advocate for the informant/victim. They argued vehemently.

5. Ld. Advocate for the accused submitted as under :-

The accused is in Jail since 04/08/2019, therefore, for more than 6 years he is in Jail. The prosecution has examined witnesses and after hearing the final arguments the case was fixed for judgment. There is no sufficient evidence against accused to held him guilty. Therefore this bail application is filed. No purpose would be served in keeping the accused behind the bars. Therefore, regular bail be granted to the accused.

6. On the other hand, the Ld. APP for the State and Ld. Advocate for informant submitted as under :-

All earlier bail applications filed on behalf of accused are rejected on merits. The bail application filed before the Hon'ble High Court of Judicature at Bombay is also rejected on merits. Already the witnesses are examined by the prosecution and after hearing the final arguments the case has been fixed for judgment. There is no change in circumstances, therefore, the present bail application is not maintainable. The accused has played active role in committing the offences under the POCSO Act as he committed rape on victim/minor girl. There is sufficient substantive evidence against accused to prove the charges levelled against him. If bail is granted to him, there is every possibility that he would abscond in order to avoid the conviction. Further, he may commit more serious offence like killing the informant/victim and/her mother. Therefore, the bail application should be rejected.

7. Admittedly, after hearing the final arguments of both sides the case was fixed for judgment. However, for one or other reason/reasons the judgment is yet to be delivered by this Court. The charge framed against accused is in respect of offence p/u/s 376(1), 363, 366-A of the Indian Penal Code and Sec. 4 and 8 of the POCSO Act. Record shows that all earlier bail applications filed on behalf of the accused are rejected on merits by the concerned Addl. Sessions Judge and the Spl Court. All these applications were filed after the filing of charge-sheet and those were rejected on merits. Record further shows that bail application filed before the Hon'ble High Court of Judicature at Bombay i.e. Cri. Bail Appln. No.1485 of 2020 is rejected vide order dated 17.02.2021. The said bail application was moved after the filing of charge-sheet and it has been rejected on merits by the Hon'ble High Court. After going through the said order of the Hon'ble High Court, it can not be said that any liberty was granted to the accused to file fresh bail application before the Sessions Court.

8. Record further shows that the prosecution has examined in all eight witnesses and the material witnesses are supporting to the prosecution case. After going through the evidence on record, it can be said that prima facie there is sufficient material and evidence against accused showing his involvement in committing the alleged offences. The offence alleged are of rape and under the provisions of POCSO Act. There are certain presumptions under the POCSO Act. Already after hearing the final arguments of both sides, the case was fixed for judgment. Soon the judgment would be delivered by this Court. Therefore, and as all earlier bail applications of accused are rejected on merits by the Hon'ble High Court and the concerned Sessions Court and by this Court, it can be said that the accused is not entitled for regular bail. As such, the application is to be rejected. Hence, I pass the following order.

ORDER

1. The application is rejected.
2. The case is fixed for judgment on 20/12/2025.
3. Inform accordingly, to the D.G.P./P. P., the concerned Jail Authority and Police Station Officer of concerned Police Station.

(Soft copy of this bail order be sent to the concerned Jail Authority through E-mail for providing its copy to the accused.)

Date- 15/12/2025.
Malegaon.

(K. R. Patil)
Addl. Sessions Judge, Malegaon.
Dist. Nashik.