

Order below Exh.71 in Special Case No.18/2025

1. This application is filed by accused under section 483 of Bharatiya Nagrik Suraksha Sanhita.
2. Read the application and say of the prosecution side. Heard both the sides at length. Perused the proceeding. Brief facts which are necessary to decide this application may be stated as follows.
3. The accused is charged for the offence under section 64, 64 (2), 65 (2) of BNS 2023, section 4, 6, 8 and 10 of POCSO Act.
4. Prosecution case in short is that, the informant is the mother of victim child. The offence was occurred on 18.12.2024 at about 9.00 p.m. in the house of accused. The family of the informant were neighbour of accused family. Accused was 20 years old young boy. Both the families were acquainted to each other. At the relevant time, the victim child has went to the house of accused to play. It is alleged that, accused has committed a rape on victim child in his house. The report is lodged on 19.12.2024. Informant's husband was posted as a police officer at Dharashiv at the relevant time.
5. Advocate Sakhare for the accused submitted that, the prosecution side has examined some witnesses. Prosecution side has produced reports of Chemical Analysis. These reports are not supporting to the prosecution case. The medical examination report of the victim shows that, her hymen was not ruptured. It shows that there was no penetration in the private part of the

victim child. Accused is behind the bars from 19.12.2024. Accused is a young college student. The medical evidence and the report of Chemical Analysis are not supporting to the prosecution case. So it support to the case of the accused that he is innocent. Advocate Sakhare has also placed on record the case of Vanita Patil ..v/s.. State of Maharashtra (ABC 2019 (I) 153 BOM).

6. On the other hand APP Mrs.Sable submitted that this is a sixth bail application. In order to attract section 4 and section 6 of the POCSO Act, it is not necessary that the hymen should be ruptured or ejaculation is present. Penetration of any extent is sufficient to attract these sections. The offence was occurred at the house of accused. It is possible that the accused has wash out his clothes and bed sheet to destroy the evidence. Evidence of victim and informant is not yet recorded. The prosecution side has not delayed the trial intentionally. The muddemal is not yet produced before the Court. The contents of this application and application Exh.39 are same. The facts of the case Vanita Patil (cited supra) are not similar. So application may be rejected.

7. The accused has filed bail application No.819/2025 before the Hon'ble High Court. The Hon'ble High Court by an order dated 14.08.2025 has rejected the bail application. The Hon'ble High Court has rejected the bail application after considering the medical evidence produced by the prosecution side. That time only the Chemical Analysis reports were not produced before the Hon'ble High Court. Now those reports are produced before the Court.

8. The examination report issued by R.F.S.L. Chhatrapati Sambhajinagar in MLC No.DNACS-601/2025 shows that nail clipping, pubic hair and smegma swab of accused was sent for chemical analysis. This report further shows that no interpretable DNA profile obtained from Smegma swab of the accused.

9. The examination report of R.F.S.L. Chhatrapati Sambhajinagar in MLC No. DNACS-602/2025 shows that vaginal swab, vulval swab and vaginal smear of the victim were sent for chemical analysis. The report shows that no interpretable DNA profile was obtained from vaginal swab and vulval swab. No male DNA detected on vaginal swab, vulval swab and vaginal smear of the victim.

10. The examination report of R.F.S.L. Chhatrapati Sambhajinagar in MLC No.DNACS-17/2025 shows that neither blood nor semen is detected on the clothes of the accused.

11. The examination report of R.F.S.L. Chhatrapati Sambhajinagar stated above are not substantive piece of evidence. It is only a corroborative piece of evidence. In this case, the evidence of the victim as well as informant is not yet recorded. Till today only evidence of three prosecution witnesses are recorded. Muddemal is not yet deposited before the Court. So the prosecution side has not examined the important witnesses like victim and the informant. From the material on the record this Court is of the opinion that, the prosecution side has not protracted the trial. The trial is protracted mainly on the ground that muddemal is not deposited before the Court. Further, due to

election of Dharashiv Nagar Parishad, interlocutory applications filed by accused, the trial is protracted.

12. In the case of Vanita Patil (cited supra) the facts were that the victim was 12 years old and accused was her teacher. Learned trial Court has convicted the accused No.1 for the offence punishable under section 376 (2), 342, 354, 292, 509 of IPC, under section 6, 14 of POCSO Act and under section 67 (B) of I. T. Act. Accused No.2 was convicted for the offence under section 292, 509, 109, 342, 376 (2), 109 of IPC and under section 6, 14 and 17 of POCSO Act. In the appeal Hon'ble High Court has acquitted both the accused. Hon'ble High Court has acquitted the accused considering the evidence against them.

13. In the present case the trial is not yet concluded. Medical evidence is not yet lead by the prosecution side. The ratio of this case may be considered at the time of final hearing of this case. At this stage the ratio of this case is not useful to the accused / applicant.

14. For the above reasons this Court is of the opinion that it will not be just and proper to release the accused on the bail at this stage of the matter. With this conclusion, I proceed to pass following order.

ORDER

Application is rejected with costs.

Date :- 19.01.2026

[A. S. Awate]
Judge, Fast Track Special Court,
Dharashiv.

C E R T I F I C A T E

I affirm that the contents of this PDF file Order/Judgment are same word to word as per the original Order/Judgment.

Name of Stenographer	Mahesh Abhimanyu Pawar Stenographer (Grade-I)
Name of Court	Fast Track Special Court, Dharashiv (Osmanabad)
Date of order/Judgment	19.01.2026
Date of order/judgment signed by presiding officer.	19.01.2026
Judgment/Order uploaded on	19.01.2026