

MHPA010013192026



Dhirajkumar Ramesh Gaikwad

VersusThe State of Maharashtra,
Through Kotwali Police Station

ORDER BELOW EXH.1
(Passed on 16.06.2026)

This is an application under Section 483 of BNSS for releasing applicant / accused Dhirajkumar Ramesh Gaikwad on bail in **Crime No.256/2026** for offences punishable u/s 64(2)(i), 64(2)(m), 69, 351(2) of BNS and u/s 4, 6, 8 & 12 of POCSO Act registered with Kotwali Police Station.

2. Heard learned Counsel for applicant/accused and learned APP for the State. Perused reply (Exh.5) of the victim. It is case of prosecution that informant is mother of victim girl who is 17 years old. Informant alleged that her daughter/victim has studied up to 12th standard. Her date of birth is 17/3/2009. In October 2025, informant noticed that her daughter/victim was sending message through mobile to a boy. At that time, informant has given understanding to her daughter. Thereafter, in January 2026 informant again noticed that her daughter/victim was talking with a boy namely Dhiraj (accused). At that time also informant has given understanding to her daughter do not talk with accused. Thereafter, informant has many time noticed talk between victim and accused but the informant has not told the said fact to her husband (father of victim) because she has fear that her father will stop the victim from attending the school.

3. On 24/5/2026 at about 11.00 pm informant and her husband saw that victim is chatting on mobile phone. Therefore, they

have taken her mobile phone and inquired with her about the said boy but she has not disclosed the name of said boy. Thereafter, on 25/5/2026 informant has called her brother and his wife. At that time, they inquired with victim. Victim disclosed that she is conversant with accused from the year 2023 through social media – Instagram. They are in love with each other. She also disclosed that she met the accused in Apple Cafe situated beside Gangakhed road. In December 2025 at about 1.30 am when other family members were not present in their house, accused came at their house. At that time, accused has committed sexual intercourse with victim. Again in April 2024 at about 2.00 am accused came to their house and committed sexual intercourse with her against her wish. At that time accused was saying that he is going to marry with her. Victim also disclosed that accused has committed sexual intercourse with her against her wish and will.

4. Learned counsel for applicant argued that at present victim is 17 years 3 months old. Prosecution story itself shows that victim and accused has love affair. They both are adolescent. Investigation is almost completed. Accused is in judicial custody from 28/5/2026. He relied on following case laws:-

(i) **Sunil Mahadev Patil Vs. State of Maharashtra, Bail Appli. No.1036/2015 dated 3/8/2015, Bombay High Court**, wherein it is observed by Hon'ble Bombay High Court that -

12. The overall considerations while deciding such applications can be summed up as -

When a boy and a minor girl are in love with each other and chose to live together without consent of their parents, then the following factors are to be considered:

(i) What is the age of prosecutrix, who is minor.

- (ii) Whether the act is violent or not.
- (iii) Whether there are antecedents or not.
- (iv) Whether the offender is capable of repeating the Act or not.
- (v) Whether there is likelihood of threats or intimidation, if at all the boy is released.
- (vi) Whether any chance of tampering with the material witnesses when their statements are recorded.
- (vii) It is also to be taken into account in such cases that a boy in his early 20's deserves to get employment and to plan, stabilize and secure his future.

13. In the present case, the prosecutrix is 15 years old and the accused is 20 years old. It appears from the record, statement of the prosecutrix and witnesses that they were in love with each other, so they eloped and went to the temple. There they garlanded each other and according to them they performed marriage and thereafter they started residing together in the house of their relative. In between prosecutrix called her distant aunt and requested her to make arrangement of some money and she disclosed that she is married and wants to stay with applicant/accused. In this case there are many mitigating factors. Under such circumstances, I am inclined to grant bail to the applicant/accused on the following terms and conditions:

(ii) Satyam Ramchandra Fulore Vs. The State of Maharashtra: 2015 All MR (Cri) 2785 Bombay High Court

Applicant allegedly enticed victim away from her lawful guardian and had sexual relations under promise to marry with her. Victim was in love with applicant. There was no history of any sexual or physical assault revealed from medical examination. Victim was 16 years old at the time of alleged incident, had attained age of understanding. Accused cannot be said to have taken victim away from keeping of her lawful guardian. Prima facie case made out for grant of bail.

(iii) Seiborlang Syiem and others Vs. State of Meghalaya: 2023(1) Crimes 451 (Megh),

This is one such case where a young couple about to cross their

years of adolescence have got themselves involved in a romantic relationship and invariably, relationship turned physical to the extent that through process of sexual intercourse, pregnancy and eventual birth of child has occurred. Petitioners are oblivious to provisions of law particularly law laid down under POCSO Act which clearly prohibits any sexual relationship between two persons, one of who is below 18 years of age. There is no aspect of sexual assault. It would be a futile exercise for proceeding to continue under the circumstances. Proceedings of before court of Special Judge (POCSO) quashed.

(iv) Nijam Murshad Ali Hashim Khan @ Nizam Ali Vs. State of Maharashtra: 2025 All MR (Cri) 184 Bom. HC

Allegation that accused had forcible sexual intercourse with victim. At the time of alleged first sexual exploitation, victim was days away from attaining majority. In FIR victim stated that she was in love with accused. Accused allegedly threatened victim on call. Victim allegedly left her home along with ornaments on her own. It is not case that accused took away victim. It cannot be said that victim did not know nature and consequences of her acts. Subsequently, in presence of her parents, victim stated that she intended to marry accused. Whether consent of victim to marry accused was vitiated on account of coercion or duress would be matter of evidence. Considering conduct of victim, prima facie inference can be drawn that relationship was consensual. Allegations that accused threatened victim with dire consequences once he is released on bail, can be taken care of by imposing stringent conditions.

(v) Mandip Gyan Singh Vs. The State of Maharashtra: 2025 All MR (Cri) 2218, Bom. HC.

Prosecutrix was 14 years old at the time of incident and accused was 25 years old. Both known to each other well. Prosecutrix left her home without informing her parents by her own will and also took Rs.20000/- from her house without informing anybody. She surrendered to physical desires of applicant out of her love and affection for him for 15 days when both of them stayed together. Act between parties not violent. No criminal antecedent against accused. Applicant incarcerated for past 1 year 6 months 11 days. Bail granted.

5. As per the say of prosecution and argument of learned APP,

the victim was 17 years old at the time of incident and therefore, her consent for love affair and sexual intercourse is immaterial. If accused is released on bail, he will pressurize victim and prosecution witnesses. Investigation is in progress and hence, accused may not be released on bail.

6. Taking into consideration rival contention of parties, it seems that victim was 17 years old at the time of alleged incident. Accused is 24 years old. It also seems from prosecution story that victim and accused have love affair. It also seems that two times sexual intercourse has taken place between them. It seems that his act was not violent. It seems that victim being 17 years old at the time of alleged incident, had attained age of understanding. Accused has no criminal history. In view of above facts and circumstances, it seems that this is one such case where a young couple about to cross their years of adolescence have got themselves involved in the romantic relationship and invariably, relationship turned to sexual intercourse. Thus, in the facts and circumstances and in view of above cited case law and considering the fact that accused is in jail from 28/5/2026; it is desirable to release accused on bail on certain conditions. Hence, I pass following order.

ORDER

1. Cri. Bail Application No.437/2026 is allowed as under.
2. Accused/applicant Dhirajkumar Ramesh Gaikwad be released on bail in **Crime No.256/2026** for offences punishable u/s 64(2)(i), 64(2)(m), 69, 351(2) of BNS and u/s 4, 6, 8 & 12 of POCSO Act registered with Kotwali Police Station; subject to conditions:
 - i) Applicant shall execute a personal bond for a sum of Rs.1,00,000/- with one or more sureties in the like amount.

- ii) Applicant/accused shall not contact the victim, informant and her family members in any manner and whatsoever mode.
- iii) Applicant shall not tamper with any of the prosecution witnesses, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to court or any police officer.
- iv) Applicant/accused shall mark his presence at the concerned police station on every Thursday between 10.00 am to 1.00 pm till filing of charge-sheet or for a period of one month whichever is earlier.
- v) Applicant shall not misuse his liberty.
- vi) Applicant shall furnish his detail address with proof and mobile number to the investigation officer and the concerned court. In case applicant change his residence/address and mobile number, he shall furnish the same to the I.O and concerned court.
- vii) Applicant shall furnish names, detail address with proof and mobile number of his three close/blood relatives.

3. Inform to jail authority by email.

Date : 16/6/2026.



(N.P. Tribhuwan)
Addl. Sessions Judge-1,
Parbhani.

Arguments heard on	15.06.2026
Judgment/order delivered on	16.06.2026
Dictated on	16.06.2026
Typed on	16.06.2026
Checked and signed on	16.06.2026

CERTIFICATE

I affirm that the contents of this PDF file Judgment/order is same and as per the original Judgment/order.

Name of Stenographer : Ramesh Annasaheb Kagbatte
Name of the Court : Addl. Sessions Judge-1, Parbhani
Date of Judgment/order : 16.06.2026
Judgment/order signed on : 16.06.2026
Presiding Officer : N.P. Tribhuwan
Judgment/order uploaded on : 16.06.2026