

CNR No.MHPU-1400-0842-2025



State of Maharashtra
Vs.
Avinash Dhaigude and Ors.

ORDER BELOW EXH.12

The applicant/accused No.2 **Shubham Pandharinath Sable** has filed this second application for bail under the provision of Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 (Here in after, in short, BNSS) in connection with C.R.No.88/2025 for the offences punishable U/s.376(2)(F), 376(2)(N) and 504 of the Indian Penal Code (here-in-after in short 'I.P.C.') and Section 4, 6, 8 and 12 of Prevention of Children from Sexual Offence Act, (here-in-after in short 'the POCSO Act'), registered at Daund Police Station, Tal.Daund, Dist.Pune.

2] Brief facts of the prosecution case are: -

The informant 'A' (name is not disclosed to withheld identity) has filed report against accused/applicant and accused Avi Dhaigude alleging that, in March 2024 at 02:00 pm, when she was alone in her house, accused Avi Dhaigude, who is her neighbor, has phone called her and asked her to come at his photo studio. Accordingly, the informant/victim get ready and gone to the photo studio accused Avi Dhaigude. When the victim/informant entered into photo studio, accused

Avi closed its shutter and started sexually assaulting her by touching her. He kissed her. She tried to resist and tried to shout. But, accused Avi closed her mouth by putting his hand. The accused Avi has removed her clothes and his own clothes and raped her. After committing rape, accused Avi told her that, she should come to meet him as and when he called her. He also threatened that; she should not disclose this fact to anyone. Thereafter, as and when accused Avi called the victim/informant, she used to meet him and accused Avi used to commit rape on her.

3] In April 2024 at about 10:00 pm, when she was slept in her house, at about 01:00 am (midnight) she feels that someone is rubbing hand on her body. She woke up and found that, it is accused/applicant. Accused/applicant has removed his clothes, close her mouth by putting hand and raped her. Accused/applicant has threatened her that if she discloses this fact to anyone, he will kill her and her sister. Therefore, she has not disclosed the rape committed by both accused to anyone.

4] In June 2024, accused Avi has again called her at his photo studio and committed rape. Thereafter, she missed her period. She was having stomach pain. On 28/01/2025, she feels giddiness. So, her grandfather took her to Mahalaxmi Hospital, Daund. Doctor examined her and told that she is pregnant and referred

her to Sasoon Hospital, Pune. Her grandfather and sister took her to Sasoon Hospital, Pune. There she gave birth to girl child. Her sister and doctor in Sasoon Hospital informed it to police. Thereafter, police came to hospital and recorded her statement.

5] On the basis of her statement, crime vide C.R.No.88/2025 for the offences punishable U/Secs. 376(2)(f), 376(2)(n) of IPC and Section 4, 6, 8 and 12 of the POCSO Act, came to be registered at Daund Police Station, Tal.Daund, Dist.Pune against the accused. Investigation is carried out by concern officer. He has submitted charge-sheet against accused person.

6] The accused has been arrested on 01/02/2025. On 04/02/2025, he has been remanded to judicial custody. He has filed application for grant of bail bearing No.247/2025. The said application is rejected by this Court. In the meantime, investigating officer has submitted charge-sheet. Then, applicant/accused has moved this second application for grant of bail.

7] Ld. APP & Investigating officer have filed their reply at Exh.14, contested the application and prayed for it's rejection.

8] The informant/victim along with her sister appeared before Court, has filed her reply at Exh.26, contested the application and prayed for it's rejection.

9] It is the submission of Ld.Advocate for the accused/applicant that, the allegation made by the victim against the accused/applicant are vague. Name of the accused/applicant is not disclosed by the victim in first FIR. It has been disclosed by her in her supplementary statement. Statement of victim U/Sec. 164 of Cr.P.C. and contents in FIR are contradictory. According to grandfather and sister of the victim, she was unconscious when she was admitted in hospital. Story narrated by the victim is suspicious. DNA report of the accused/applicant is negative. Investigation is over. The accused/applicant has been falsely implicated in this case. So, the accused/applicant is entitled to get bail.

10] On the other hand, it is submission of Ld.APP that, the earlier bail application filed by the accused/applicant is rejected by this Court. There is no change in circumstances except submission of charge-sheet. Actually, investigating officer has not submitted charge-sheet on 21/04/2025. Earlier bail application of the accused is rejected on 24/04/2025. Thus, there is no change in circumstance to reconsider the bail application of the accused/applicant again. The victim has made specific allegation against the accused/applicant. The accused/applicant is family member of the victim. The victim is below age of 14 years. The victim has made allegation of penetrative sexual assault by the accused/applicant. Unless accused No.3 is arrested and thorough investigation is conducted, the accused/

applicant is not entitled for bail.

11] In reply, it is submission of Ld.Advocate for the accused/applicant that; charge-sheet has been submitted after completion of argument on earlier bail application filed by the accused/applicant. Thus, subsequent filing of charge-sheet is change in circumstance to reconsider this application.

12] Perused material placed on record. It appears from the contents in FIR that, the victim has made specific allegation against the accused/applicant about penetrative sexual assault as well as life threats given by the accused/applicant to her. Thus, it cannot be said that name of the accused/applicant is not mentioned in the first report filed by the victim.

13] Admittedly, after alleged incident of rape the victim was staying in shelter home. At that time, she has given no objection to the earlier bail application filed by the accused/applicant. Admittedly, now she is staying with her sister at Jagatapwadi, Mandavgan Kharata, Tal.Shirur, Dist.Pune. In response to the notice send by this Court for her say on the bail application given by the accused/applicant, she appeared before this Court and filed her reply at Exh.26. Wherein, she has objected the application and prayed for its rejection. Admittedly, the accused/ applicant is family member of victim girl. Being cousin of the victim girl, he is well aware that victim is minor. Still, according to the victim, he has committed forcible penetrative sexual assault during night hours.

This shows that, the allegation made by the victim girl are against the accused/applicant are serious in nature. Being cousin of victim, the accused/applicant as well as other elder member of their family i.e. father, grandfather, uncle, etc are guardians of the victim girl. Admittedly, the victim was pregnant. So, in the given facts and circumstances, I am of the view that, this is not fit case to grant bail to the accused/applicant.

14] As pointed out by Ld.Advocate for the accused/applicant, there is some inconsistency in the statement of the victim girl while filing report and in her statement U/Sec.164 of Cr.P.C. But, considering the fact that, after FIR, victim was staying in shelter home. At that time, her statement U/Sec.164 was recorded. She was abandoned by her own family after alleged incident. Therefore, the trauma faced by the victim needs to be considered in this case. Thus, the inconsistency in her statement, in my opinion is not sufficient to grant bail the accused/applicant.

15] As pointed out by Ld.Advocate for the accused/applicant, DNA report shows that the accused/applicant is not biological father of the child begotten by the victim girl. But, contents in FIR and supplementary statement of the victim girl goes to shows that, according to the victim, the accused/applicant and two other accused persons have committed rape on her. Thus, I am of the view that, negative DNA report is not sufficient to grant bail to the accused/applicant.

16] As pointed out by Ld.APP, the earlier bail application filed by the accused/applicant is rejected by this Court. Admittedly, at that time, the victim has given no objection to grant bail. Still bail application of the accused/applicant was rejected by this Court. Now, the victim appeared and resisted the application. In view of my above discussion, the accused/applicant is not entitled to get bail. So, mere submission of charge-sheet, in the given facts and circumstances of this case cannot be said to be change in circumstance to consider the bail application of the accused/applicant afresh. Therefore, on that ground also, application is not tenable.

17] Having regard to the above-mentioned facts and circumstances of the case, I am of the opinion that, the accused/applicant is not entitled to get bail. I, therefore, pass following order: -

ORDER

- 1.** Application is rejected.
- 2.** Inform to concerned Jail Authority, through email.

Baramati.
Date: - 30-10-2025

(S.R.Patil)
Special Judge , Baramati.
(Under POCSO Act)

“CERTIFICATE”

I affirm that the contents of this PDF file are same word for word as per original :-

Name of Steno : **Jagadish Narayan Kanki,**
(Stenographer Grade - I)

Court name : **Surekha R. Patil.**
Addl. Sessions Judge, Baramati

Judgment delivered on : **30/10/2025**

Judgment signed by PO on : **04/11/2025**

Judgment uploaded on : **04/11/2025.**