

MHPU140009012020



Special Case No.-49/2020

**State of Maharashtra through Daund P.S. Vs.
Subhash Bhimrao Pawar**

ORDER BELOW EXH.-20

01] This is an application, filed by accused no.1/applicant under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023, for granting regular bail from Crime No.122/2019, registered with Daund Police Station, punishable under Sections 363, 376, 368 r/w.34 of Indian Penal Code and under Sections 4 (5) (l) and 5 (n) of the Protection of Children From Sexual Offences Act, 2012.

02] The prosecution by filing say dated 27.06.2025, denied all allegations, contested the application on various grounds and requested for rejecting it.

03] Though opportunity to the victim by issuing notices R/o.11.07.2025 and 06.12.2025 are given to the victim, due to want of complete address in another District, personal notice was not served on her, however intimation of mobile phone appears to be given to her, but she failed to appear and file the say.

04] Heard Ld. advocate Shri R. D. Kshirsagar for accused/applicant and APP Shri Sandip Ohol for State. Perused record. Following points arise for determination and my findings thereon for the reasons recorded thereunder are as follows :-

Sr No.	Points	Findings
1.	Whether the accused no.1/applicant is entitled to get relief of bail ?	<u>No.</u>
2.	What order ?	<u>As per final order.</u>

REASONS

AS TO POINT NOS-1 AND 2 :-

05] In support of the application, neither the accused No.1/applicant and in support of the say, nor the prosecution have produced on record any affidavit.

06] It reveals that, there are allegations against the accused No.1/applicant that, during the period in between 4.00 a.m. of 21.02.2019 to 21.01.2020, on assurance of protecting her from her father, he kidnapped minor daughter aged about 14 years, from lawful guardianship without his consent of her father, taken her in different Districts, kept her along with him forcibly, committed repeated rape on her until she becomes pregnant by 02 months, abused, beat and threatened her.

07] Advocate of accused No.1/applicant submitted that, the accused No.1/applicant has not committed any offence, though his bail applications before chargesheet bearing Cri. Bail Application No.523/2020 and after filing of chargesheet at Exh.04 are rejected by the Court as on 29.08.2020 and 27.07.2021, now there are changes in circumstances. Though the accused is arrested prior to 05 years back, yet DNA report is not received. The accused Nos.2 and 3 are yet not traced. The accused

No.4 is already released by Ld. JMFC Daund. The charge is not framed. No recovery is remained. The custodial detention of accused No.1/applicant is not necessary. In view of cases of **Ganesh Madhukar Mendarkar Vs. The State of Maharashtra, Bail Application No.597/2025 dated 14.02.2025 of Hon'ble High Court, Bombay**, the accused No.1/applicant may be released on conditional bail.

08] The prosecution objected and APP submitted that, the accused No.1/applicant has committed very serious offence punishable upto remainder of life. The age of victim at the time of kidnapping was just 14 years, there is prima facie case against accused No.1/applicant, as such his previous two bail applications are rejected by the Court, the accused No.2 is wife, accused Nos.3 and 4 are his brothers, all the accused are sugarcane cutting labours, the accused Nos.2 and 3 are absconded, the accused No.4 is also not tracing, if the accused No.1/applicant is released on bail, he will tamper prosecution evidence and will abscond and as there are no changes in circumstances and in view of case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan and Ors. MANU/SC/0214/2004**, the accused No.1/applicant is not entitled to get the relief of bail.

09] If the aforesaid position is taken into consideration, it can prima facie be said that, the accused No.1/applicant is claiming bail on the grounds of change in circumstances i.e. non receipt of DNA report and 05 years is lapsed. However, APP rightly submitted that non receipt of DNA report is not the change in circumstances and the prosecution is in position to proceed further with the trial, instead of said report. Advocate of accused No.1/applicant has not controverted arguments of APP that the offences punishable with rigorous imprisonment for a term which shall not

be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death. If the said legal position is taken into consideration prima facie, the submissions of advocate of accused No.1/applicant that because of his period of detention as Under Trial Prisoner, he may be released on bail, cannot be taken as a ground of change in circumstances, which is entitling him to claim the relief of the bail. In case of **Ganesh Madhukar Mendarkar Vs. The State of Maharashtra, Bail Application No.597/2025 dated 14.02.2025 of Hon'ble High Court, Bombay** relied on by the advocate of accused No.1/applicant, it is observed by His Lordship that, the accused is in prison for more than 05 years, then he may be released on conditional bail, so as to save mental and physical health, post incarceration syndrome, depression, anxiety, poor self-esteem, drug abuse, disruption of relationship etc. However, as discussed earlier such is not the factual position with prima facie evidence in present proceeding and with due respect the said submissions and cited case laws will not help to the accused No.1/applicant.

10] The prosecution thus appears to be rightly objected and APP rightly submitted that, the accused No.2 is wife, accused Nos.3 and 4 are his brothers, all the accused are sugarcane cutting labours, the accused Nos.2 and 3 are absconded, the accused No.4 is also not tracing, if the accused No.1/applicant is released on bail, he will tamper prosecution evidence and will abscond and as there are no changes in circumstances and in view of case of **Kalyan Chandra Sarkar Vs. Rajesh Ranjan and Ors. MANU/SC/0214/2004**, the accused No.1/applicant is not entitled to get the relief of bail.

11] Considering facts, circumstances, evidence on record and legal position discussed above, I come to the conclusion that, the accused No.1/applicant prima facie failed to prove that, he is entitled to get relief of bail. Accordingly, point No.1 answered in the “Negative” and I pass the following order.

ORDER

Application (Exh.20) is hereby rejected

Date:-21.02.2026.

(R. G. Malashetti)
Addl. Sessions Judge, Baramati

CERTIFICATE

I affirm that the contents of this P.D.F. file order are same word for word as per original order.

Court Name	:- R. G. Malashetti, Addl. Sessions Judge, Baramati
Name of Steno.	:- S. Y. Shaikh, (Steno -Grade-1)
Date of order.	:- 21.02.2026
Order signed by P.O. on	:- 23.02.2026
Order uploaded on	:- 24.02.2026