

Sessions Case No. 149/2025

CNR NO. MHPU140018852025

State of Maharashtra
(Through Yavat Police Station)

Vs.

Vikas Popat Dhamal

ORDER BELOW EXH.71
(Passed on dt. 09.03.2026)

1] This is an application under Section 483 of the Bhartiya Nagarik Suraksha Sanhita, 2023 (in short 'BNSS') for grant of regular bail to the accused no.1 viz.Vikas Popat Dhamal in respect of Crime No.510/2025, registered with Yavat Police Station, for the offence punishable under Sections 64(1), 70(1), 333, 352, 351(2)(3), 3(5) of the Bhartiya Nyaya Sanhita, 2023 (in short 'BNS').

2] Perused application and reply thereon filed by the investigating officer as well as Ld. APP. Heard Ld. Counsel for both the sides.

3] Notice was served to the informant vide Exh.81. However, she failed to appear pursuant to the said notice and to file her reply to the present application. Hence, application is proceeded further without the reply and hearing of informant.

4] It is the case of prosecution that applicant/accused No.1 Vikas is the husband of victim/informant. He used to physically and

mentally harass her by taking suspicion on her character. During the period from year 2023 to till dt.27/04/2025 applicant/accused No.1 Vikas forced the victim to have sexual intercourse with accused Nos.2 to 4 by threatening to kill her. Therefore, the victim lodged her report at Yavat Police Station on dt.10/06/2025.

5] Ld. Counsel for the accused submitted that the accused no.1 is in jail since 10/06/2025. The specific date, time and place about sexual assault by accused is missing in the FIR. The accused is arrested before registration of the FIR. There is delay in lodging the FIR. There are no criminal antecedents against applicant/accused. FIR is false and fabricated. Investigation is completed and charge-sheet is filed. There is no recovery or discovery at the hands of the applicant/accused and there is no need of further incarceration. Moreover, other accused are already released on bail. Accused no.1 Vikas is permanent resident of Bharatgaon, Tal. Daund and he is ready to abide all conditions imposed by the Court. Hence, it is prayed to release the accused on bail.

6] Per contra, Ld. APP and investigating officer submitted that the offence is serious and heinous in nature. On the force and threat given by accused No.1, who is the husband of victim, other accused committed rape on victim for 2 years. Mere delay in lodging the FIR is not fatal to the case of prosecution and said delay is duly explained. Section 70(1) of the BNS applies against the accused for which the punishment is provided for not less than 20 years. Moreover, possibility of tampering the evidence of prosecution and pressurizing the witnesses of prosecution at the hands of accused

no.1 cannot be ruled out if he is released on bail. Hence, it is prayed to reject the application.

7] Perusal of FIR shows that there is matrimonial dispute between the victim and her husband/accused no.1 Vikas. Moreover, perusal of FIR *prima facie* show that there is delay of 2 years in lodging FIR. It is pertinent to note that said delay is not elaborately explained in the FIR. It is true that said delay in lodging FIR cannot be a sole ground to throw away the case of prosecution out-rightly. However, at the time of adjudicating the bail application, said delay in lodging the FIR is relevant consideration. To fortify my aforesaid view, I am relying upon authority of Hon'ble Bombay High Court in ***Nityanand Devendra Vs. State of Maharashtra*** reported in **2025 : BHC-AS : 30952**.

8] In the said authority, the wife had made the allegations of rape against her two step-sons and her husband. Moreover, in the said case, there was delay of more than 2 months in lodging FIR. In the background of said facts, Hon'ble Bombay High Court held as under :

“8. It is pertinent to note that the main allegation regarding the act of sexual assault involving the complainant and the applicant's sons is said to have occurred on 22nd June 2023. However, the FIR has been lodged more than two months later, on 1st September 2023. Though delay in lodging FIR cannot be the sole ground to disbelieve the complainant, at the stage of bail, such delay does assume relevance in assessing whether the matter is of such gravity that custodial interrogation of the applicant is still necessary. The explanation for such delay is not elaborately stated in the FIR or the accompanying statements.

.....

11. It is also submitted by the learned counsel for the applicant that the applicant is in custody since 1st September 2023, and no

further custodial interrogation is necessary. The investigation appears to be complete and the charge-sheet is stated to have been filed. Therefore, the continued incarceration of the applicant may not be necessary, especially when the trial is likely to take considerable time. The applicant is a permanent resident of the local jurisdiction and there is no material on record to suggest that he would flee from justice or tamper with evidence or influence witnesses if released on bail.

12. Having regard to the totality of facts and circumstances, including the delay in registration of FIR, the grant of bail to the co-accused, the marital relationship between the complainant and the applicant, the period of custody already undergone, and the fact that charge-sheet is filed, this Court is of the opinion that a case for grant of bail is made out.”

9] It is significant to note that facts of the present case are identical to the facts of the authority cited supra. Therefore, observations made in the aforesaid authority, needs to be taken into consideration. As discussed earlier, there is delay of 2 years in lodging report. Moreover, said huge delay is not elaborately explained in the FIR as well as statement of the victim. Furthermore, specific dates and time of incidents are not specified in FIR. Therefore, it *prima facie* creates doubt on the genuineness of the prosecution. As the investigation is already completed and charge-sheet is filed, it is clear that nothing is to be recovered from the possession of the accused. Therefore, it is also clear that custodial interrogation of the accused is not necessary.

10] Record shows that accused no.1 is in jail since dt.10/06/2025. It is undisputed that accused no.1 is not the resident of the place where victim is residing at the present moment. Similarly, there is nothing on record to suggest that accused no.1 Vikas will abscond or he will tamper with the evidence of prosecution, if released on bail. It is significant to note that trial is yet

to commence. Moreover, considering the huge pendency before the Court, trial of the case may take its own time to conclude. Similarly, all the other accused are already released on bail.

11] In view of all the aforesaid facts and circumstances of the case, it will not be just and proper to detain the accused no.1 Vikas in jail till the conclusion of trial. Hence, I hold that accused no.1 Vikas is entitled to be released on bail. So far as apprehension regarding tampering with the evidence of prosecution is concern, suitable conditions to that effect can be imposed upon the accused no.1 Vikas. Hence, I pass the following order.

ORDER

1. Applications at Exh.71 is hereby allowed.
2. Accused no.1 **Vikas Popat Dhamal** is released on bail on his executing personal bond of Rs.1,00,000/- with one or two solvent surety/sureties in the like amount, in connection with Crime No.510/2025, registered with Yavat Police Station, for the offence punishable under Sections 64(1), 70(1), 333, 352, 351(2)(3), 3(5) of the Bhartiya Nyaya Sanhita, 2023, subject to the conditions that :
 - i) Accused shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts and/or accusation against them so as to dissuade them from disclosing such facts to the Court or any police officer.
 - ii) Accused shall not indulge in any criminal activities in future.
 - iii) Accused shall submit list of at least 3 blood relatives with their detail residential addresses and also the addresses of their places of work, if any, and documentary proof of showing the correctness of details produced by them.
 - iv) Accused shall submit copies of at least 2 documents amongst the Passport, PAN Card, Aadhar Card, Ration Card,

electricity bill or Voter Identity Card issued by the Election Commission of India.

3. In the event of breach of any condition, the bail granted to the accused, would liable to be cancelled.
4. Copy of bail order be forwarded to the concerned Jail.

Baramati

Date : 09.03.2026

(Hitendra Urmila Anilkumar Wani)

Additional Sessions Judge, Baramati.