

IN THE COURT OF SPECIAL JUDGE,
BARAMATI, DIST.PUNE.
(Presided Over by Surekha R. Patil)

Special Case No.393/2024

CNR No.MHPU-1400-3779-2024

State of Maharashtra

Vs.

Akshay Dnyandev Madake

ORDER BELOW EXH.02

(Delivered on this 10th January, 2025)

The applicant/accused No.8 **Akshay Dnyandev Madake** has filed this application for bail under the provision of **Section 439** of the Code of Criminal Procedure (Here in after, in short, Cr.P.C.) in connection with Crime No.385/2024 for the offences punishable u/Sec.137(2), 64(2)(M), 65(1), 70(2), 3(2) Bharatiya Nyaya Sanhita (here-in-after in short 'B.N.S'), Section 4, 6, 8, 12 and 17 of Prevention of Children from Sexual Offence Act, (here-in-after in short 'the POCSO Act') and Section 3(1)(w)(ii), 3(21) (va) of the Atrocity Act, registered at Baramati Taluka Police Station, Tal.Baramati, Dist.Pune.

2] The informant 'X' (name is not disclosed to withheld identity) being mother of victim girl has initially filed missing report of victim girl on 14/09/2024 contending that someone might have kidnapped her minor girl. Thereafter, on 15/09/2024,

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the victim girl has phone called the informant and told that she is going to Mumbai from Pune. The mother of victim girl i.e. informant has scold at her, she asked the conductor of the bus boarded by the victim and her friend to take back their tickets and asked the conductor to handover the victim girl and her friend to police at Swargate police station. Accordingly, police of Swargate police station have taken custody of victim girl and her friend. Then, the police from Baramati Taluka Police Station gone to Pune and brought victim girl and her friend to police station.

3] On inquiry the victim girl has told that she and her friend went to Pune. While proceeding to Pune, her friend called accused Dnyaneshwar. Accused Dnyaneshwar came with other accused i.e. Aniket, Sonya, and Jay. All of them went in one room and slept over there. At that time, Aniket has sexually assaulted her. They have forced her to take liquor. When she was under influence of liquor accused Aniket and Sonya again sexually assaulted her.

4] By receiving above information from the victim girl, additional statement of the informant has been recorded and on the basis of her report, crime vide CR Crime No.385/2024 for the offences punishable u/Sec.137(2), 64(2)(M), 65(1), 70(2), 3(2) B.N.S, Section 4, 6, 8, 12 and 17 of the POCSO Act and Section 3(1)(w)(ii), 3(21)(va) of the Atrocity Act, came to be registered at Baramati Taluka Police Station,

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Tal.Baramati, Dist.Pune against accused.

5] Ld. APP & Investigating officer have filed their reply at Exh.5, contested the application and prayed for it's rejection.

6] Informant and victim served with notice but, failed to appear.

7] It is the submission of learned advocate for applicants/accused that, accused has been arrested on 02/10/2024 and remanded to judicial custody on 05/10/2024. Investigation is over. Investigating officer has submitted charge-sheet against applicant/accused, which is came to be registered as Special Case No.393/2024. The informant has not stated name of applicant/accused in the first report filed by her. In supplementary statement, she has stated the name of applicant/accused. The informant has given no objection to released other accused involved in this case. The main allegations about sexual assault are against the accused released on bail. The allegation made against applicant/accused are vague. According to the informant, alleged sexual assault at the hands of applicant/accused took place in January 2023. Investigating officer has submitted report under section 189 of BNSS against two accused. Ld. Advocate for accused has further submitted that, Dy. Chief minister Shri Ajit Pawar has expressed his concern about such fake cases.

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8] On the other hand, it is submission of Ld. APP that, there are specific allegations against applicant/accused. Victim is minor. Role of applicant/accused is specifically stated in supplementary statement by the informant on the basis of statement of victim girl. There is prima facie sufficient evidence against applicant/accused. So, he is not entitled to get bail.

9] Perused material place on record. As pointed out by Ld.APP, specific role of applicant/accused is disclosed by the informant in supplementary statement, which goes to show the role of applicant/accused in commission of offence. Though the name of applicant/accused is not mentioned in first FIR, admittedly, the first FIR as well as supplementary statement of the informant is based on the informant given by the victim girl. It is not the case of accused that, though the informant has knowledge about sexual assault in January 2023, she has not mentioned it in earlier FIR. Thus, only because name of applicant/accused is not mentioned in first FIR and it has been mentioned in supplementary statement on the basis of further information received from the victim girl, it cannot be said that, the allegation made by the victim girl against applicant/accused are false or fake.

10] Be that as it may, investigation is over. Investigating officer has submitted charge-sheet. As

pointed out by Ld.Advocate for accused, the informant and victim girl has given no objection to release accused Nos.1 to 4 on bail. The main allegations of sexual assault have been made by the victim girl and informant against accused no 1 to 4. So, on the ground of parity, applicant/accused is entitled to get bail.

11] It is true that there is possibility of tampering of evidence and pressure on the victim girl and informant at the hands of applicant/accused. Therefore, applicant/accused needs to be released on bail subject to certain conditions. So also, to secure the presence of accused before Court during trial, certain condition needs to be imposed on them.

12] Having regard to the above-mentioned facts and circumstances of the case, I am of the opinion that, the accused/applicants are entitled to get bail. I, therefore, pass following order: -

ORDER

1. Application is allowed.
2. Applicant/accused No.8 **Akshay Dnyandev Madake** in connection with CR Crime No.385/2024 for the offences punishable u/Sec.137(2), 64(2)(M), 65(1), 70(2), 3(2) B.N.S, Section 4, 6, 8, 12 and 17 of the POCSO Act and Section 3(1)(w)(ii), 3(21)(va) of the Atrocity Act, registered with Baramati Taluka Police Station,

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Tal.Baramati, Dist.Pune, be released on bail, on furnishing P.R. Bond of Rs.50,000/- (Rs. Fifty Thousand only), with a Surety in the like amount, and on the following conditions: -

- (a)** He shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him, so as to dissuade him from disclosing such facts to the Court or to Investigating Officer.
- (b)** The applicant shall produce his proof of permanent residence along with his mobile numbers.
- (c)** The applicant shall not establish any contact with the victim and her friend, and shall not in no way make any attempt to establish contact with victim, her friend or informant either physically or virtually.
- (d)** The applicant shall not tamper the evidence of prosecution in any manner.
- (e)** The applicant shall attend this Court on each and every date till conclusion of the trial.
- (f)** He shall comply with Chapter I Paragraphs 1 to 6 of the Criminal Manual 1980 (In view of Order of the Hon'ble High Court passed in Criminal Application

No. 28/2010 in Public Interest Litigation
No. 25/2010 on January 29, 2020).

(g) The applicant shall not enter in the
vicinity of the victim and her friend.

3. Inform to concerned Jail Authority, through email.

Baramati.

Date: - 10-01-2025

(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 : **10/01/2025**

Judgment signed by PO on : **13/01/2025**

Judgment uploaded on : **13/01/2025.**