

MHRG010002022026



Spl.Case/10/2026

State of Maharashtra through
Nagothane Police Station

Vs.

Amitkumar Rajbali Giri

Order Below Exh.5

Perused this **regular bail application of Amitkumar Rajbali Giri** u/sec.483 of The BNSS ; in C.R.No.04/2026 of Nagothane Police Station for the offences p/u/sec.64, 64(2)(i), 64(2)(f), 65(1), 74, 75(1), 115(2) of the BNS, 2023 and u/s 4 & 8 of the POCSO Act.

2] Issued notice to the I.O., A.P.P. and victim for say.

3] The I.O. & Ld.D.G.P. Mr. Santosh Pawar for the State, filed common say Exh.7. The mother of the minor victim age 04 years – qua complainant also filed her say of 05 lines Exh.8 submitting that accused has committed most gruesome offence with his own daughter and if enlarge on bail he will harass both of them and prayed for rejecting the bail.

4] Heard Mr. C. C. Kamathe the Ld. Advocate for the accused as per this bail application. Also heard the ld. D.G.P. Mr. Santosh Pawar as per his say as well as the complainant – mother of the victim in person as per her say-cum-objection.

5] Perused the charge sheet and the documents submitted therewith especially the F.I.R. which is initially registered u/s 74 and 115(2) of the B.N.S. & Section 7 r/w 8 of the POCSO Act. Perusing the same it no where mentions of rape but the medico legal

examination of the minor 04 year victim on the very next day i.e. 08.01.2026 – in the history of the incident by the said 04 year minor victim personally given to the Dr. Aishwarya it is disclosed that, her father used to touched her genitals when no one was present and then asked her not to tell her mother about it and gave her chocolate as reward and it occurred 08 days back and on 31.12.2025 and in the column No.15(F) the penetration in the genitalia is by finger and the opinion column 24 also mentions that with the said findings history, possibility of sexual assault cannot be ruled out. Hence as narrated by the child victim and observed by doctor, on the very next day of the incident the offence of rape – repeated penetrative sexual assault – aggravated penetrative sexual assault is mentioned and as such a prima facie case is made out against the accused – real natural father and especially as per section 29 of the POCSO Act there is statutory presumption as well.

6] Hence the charge-sheet is correctly filed as such in contrast to the defence submissions that F.I.R does not include mentioning of rape also because F.I.R is not encyclopedia and the victim – minor child herself has mentioned before the doctor about insertion of finger in her genitalia by the accused father.

7] However the said is possibility as the said medico legal examination reports that the hymen of the minor victim girl is intact. Hence at this juncture it cannot be a ground to deny bail to the accused that too in the absence of any criminal antecedents, and when the object of bail is to secure presence of the accused and not to impose pre trial punishment qua detention.

8] Further no doubt the accused is residing at Alibag because of his labour work job and he is permanently R/o. Balia, Gopalganj, Bihar. It cannot be a ground to deny bail as he undertakes to furnish

his permanent home address wherein he would be available alongwith the affidavits of his parents and the same can be secure by imposing stringent condition of proof of his permanent address and his availability there at as well as imposing conditions to attend police station Nagothane until further orders.

9] Further the entire investigation is over and charge-sheet is before the Court and hence nothing remains to call for further detention of the accused.

10] Also merely because POCSO is levelled against the accused it cannot be per-se a ground to reject the bail and in such appropriate cases herein, the bail can be granted. More so when after the alleged incident the wife and the minor victim daughter of the accused have left him and his house and shifted to another District (name not disclosed in this order to protect the security of the minor victim and her mother). Hence the apprehension of the mother can be well taken care of by imposing stringent conditions that he shall not visit the said new district where the complainant and the minor victim are residing and also that he shall not contact directly or indirectly with any of the near or distant in laws to trace out the complainant and the victim.

11] Especially when the charge-sheet is filed before my Ld. Predecessor Smt. Shristy Nilkanth on 25.02.2026 and was pending in her Court until her transfer dated 03.04.2026 and my joining of this Court on 20.04.2026 followed by my medical leave on account of fractures and ensuing summer vacation and this case – Special POCSO Case No.10/2026 being received by in-charge Court on 02.05.2026 and thereafter before me on 25.05.2026 fixed for charge but this bail application filed on 30.06.2026 only. Hence accused is in custody from 31.12.2025 to till date i.e. 6 months & above without

any progress on the part of my Ld. transferee Predecessors/in-charge.

12] Hence in such circumstances there is no reason to deny bail as bail is rule and there should not be any pre trial detention merely because POCSO is levelled and the crime is not of brutal and granting of bail is not contingent upon the probable out come of the trial.

13] Hence and for these reasons this is a fit case to exercise judicial discretion of bail in favour of the accused. Hence I allow this application qua order infra -

ORDER

1. Bail application Exh.5 of the accused **Amitkumar Rajbali Giri** in Cr.No.04/2026 of Nagothane Police Station; is hereby allowed.
2. He be enlarged on PRB and Local SSB of Rs.35,000/- (Rs.Thirty Five Thousand Only) each.
3. The accused shall not be released on bail until he files proof of his residence in Alibag and file an undertaking not to leave District Raigad without prior permission of this Court and attend Police Station Nagothane every Monday in between 11.00 to 02.00 p.m. by maintaining diary I.O. to be informed for compliance. **This is prime condition of release on bail.**
4. He shall not indulge in any act/activity of offence of any nature and keep peace and good behavior.
5. He shall not enter into the vicinity of the Complainant, Victim, their relatives, witnesses etc. anywhere through out India and shall not pressurize/coerce them nor tamper with evidence or pressurize them.

6. Violation of any single condition of the bail; shall result in instant cancellation of bail and the accused shall be liable to be taken into custody; which be noted.

Alibag
Date : 15.07.2026

sd/-
(Smt. Sunita Tiwari)
Special Judge – POCSO Court &
Additional Sessions Judge,
Raigad-Alibag.