

MHRG010014672024



Special Case (POCSO) No. 55/2024

State of Maharashtra

V/s.

Ramesh Ambaji Patil and anr.2

:: ORDER BELOW EXH.39 ::
[Passed on 03.01.2026]

Perused this discharge application by the bailed out accused No.2 & 3 viz. Nandakumar Ramesh Patil & Satish Ramesh Patil who are the real sons of the UT Accused No.1 Ramesh Ambaji Patil. Also perused the say filed by the complainant vide Exh 41; by the Id APP vide Exh. 42 and the IO Vide Exh.43.

2. Also perused the entire record of the case especially

a) Statement of the victim; dated 03.10.2024:-

Although the incident is alleged to have taken place for over a span of more than 02 years from February 2022; till October 2024; the report is filed on 03.10.2024; and it transpires that victim was 14 years and studying in 9th std at the time of recording of her said statement – mature enough to state what happened with her or the attending circumstances . She states that **whatever offending acts were done during the said period were done by the Accused No.1 Ramesh Ambaji Patil. and not even remotely ; has whispered against the accused no.2 or/and the accused no.3 by any single word at all.**

b) So even if read in toto; as it is; her statement dt 03.10.2024; has no whisper or even mention of name of accused no.2/&

3 and hence no prima facie case is made out therefrom ; against both the accused No.2 &3; in respect of any offence - POCSO or whatsoever.

- c) Similarly, the medico legal examination papers of the victim , dt 03.10.2024; in the column of history of Sexual violence as well,the medical officer has specifically mentioned in the words of the victim that –she had narrated incidents of sexual assault of 17.04.2024 and 06.07.2014; at Karla but both - by only one and same person - i.e. accused no.1 Ramesh Ambaji Patil; and none other .No whisper at all, the against the accused No. 2/&3; and there is nothing to disbelieve the same prima facie; as the doctor is the independent neutral impartial person and cannot be doubted at this stage or said to be cordial with the accused so as to not implicate the accused no.2/&3.
- d) Identically same is the case with the Complaint & FIR ; filed by the mother of the victim on 03.10;2024. it has allegation only against accuse no.1 Ramesh Ambaji Patil and none else ;at all; not even remotely as well.

3. Thus, it is prima facie evident that not even the name of accused no.2 & 3 had any direct/indirect; or remote concern with the victim and alleged offences or whatsoever; right from February 2022; till October 2024;and particularly even on the date of filing of and after the Complaint and FIR on 03.10.2024.

4. Then, all of sudden on the next day; 04.10.2024; the complainant- mother of the victim gives **additional statement and for the first time alleges therein** that all the accused No. 1 to 3 ..Especially the prime accused No.1 **Ramesh Ambaji Patil** and his **wife Megha and their both sons - accused No.2 & 3;came at her house** ;insisting for taking back the complaint and to resolve and settle the matter and especially that the elder son - accused No.2

Nandkumar Ramesh Patil Ramesh Patil said that

- they were ready to sit and sort the matter out of the court and also ready to pay compensation and hence not to proceed with the police report ;
- he has concealed his father i.e. the accused no.1 Ramesh Ambaji Patil and made arrangements to evade his arrest;but he sought the help of the complainant and her family to meet elsewhere to discuss and settle the matter out of the court.;

And on refusal by the complainant and family; reminded them of his father's highhandedness – accused No.1 being the Police Patil of the village and not to take them lightly and insisted for mutual settlement.

5. Thus, even if the additional statement of the complainant is read in toto ; as it is ; firstly , it is self contradictory- more when in the very first line of the same- para no.3 she states that today dated 04.10.2024; while she and her husband were at home; the said accused - specifically mentions that accused **Ramesh Ambaji Patil** (i.e the present under trial accused No.1-father of the accused No.2 & 3) **came to her house with** wife Megha and both the sons A2 & A3. So when the accused No.1 Ramesh Ambaji Patil himself is present before the complainant at her house on 04.10.2025; the question of him being fleeing or evading arrest or accused no.2 &3 having concealed him simply is self contradictory and improbable as by no stretch of imagination ; a person can be said to be both present and absent at same point of time in same breath. So are the entire subsequent statements therein ...including that the accused no.2 informed that he has concealed his father i.e. the accused no.1

Ramesh Ambaji Patil and made arrangements to evade his arrest and that he sought the help of the complainant and her family to meet elsewhere to discuss and settle the matter out of the court. Simply because per the complainant when the accused Ramesh Ambaji Patil himself had been to her house with his family and both sons how and why could his son disclose that he has concealed his father when his father was already present with them at the complainants house on 04.10.2014; and hence it nothing but sheer attempt to falsely implicate the accused No.2. Nandakumar Ramesh Patil herein and more so for the offences of POCSO; at Par with main accused A1 Ramesh Ambaji Patil.

6. To the height her additional statement dt 04.10.2024; has no whisper - no monosyllable against the younger son- accused no.3 – Satish Ramesh Patil for whatsoever act at all and thereby absolves him prima facie from the liability even of screening or harboring their father accused No.1 Ramesh Ambaji Patil. Hence on both counts no prima facie offence is made against the accused no. 3 for the charges under POCSO or under any other law; for the time being in force.

7. Exactly same is the statement of her husband Raju Balaram Patil that on 04.10.2024 the accused No.1 Ramesh Ambaji Patil and his both sons and wife came to his house on 04.10.2024 etc. etc. and hence stands on the same footing.

8. Further no role being attributed to the accused no.3 Satish Ramesh Patil. no prima facie offence is made out. against him under the POCSO. It is noteworthy that every major person – individual is distinct legal entity and cannot be - merely by virtue of being relative - son of the accused- be saddled with criminal

liability for the acts done by his father - as is rightly argued by the Ld. defence counsel and hence this discharge application is surely tenable and can be allowed for him -accused no.3 . Justice is not only for victim but also for the accused and not only calls for speedy but also fair trial- the fundamental right of the accused enshrined and guaranteed by the Constitution.

9. Further the accused no.3 was granted anticipatory bail on 11.10.2024. That also before the arrest of his father - the accused no.1 Ramesh Ambaji Patil. so the theory of him harboring or screening his father from arrest becomes doubtful and absurd even prima facie.

10. Much so, the complainant states that the police should keep watch on the family of the accused ; which is also absurd when accused Ramesh Ambaji Patil -alleged offender himself came to her house on 04.10.2024; when her complaint and FIR was already lodged and statement of victim was also already recorded on 03.10.2024 itself ; then why she does not appraise and call the police to handover the accused persons to the police then and there ..every thing even from the preponderance of probability and man of ordinary prudence is as well not gullible,why any accused alleged and reported of such serious offence would try to go to the house of the complainant again to implicate himself ;aggravate the situation and get himself arrested;and if he does so it cannot be said that he was evading arrest or others had harbored and screened him.

11. Further it is a matter of record that the main accused No.1 Ramesh Ambaji Patil filed anticipatory bail application vide Criminal M.A.No.188/2024 on 07.10.2024 and hence he cannot be

said to be absconding till 07.10.2024 and even till it was sub judice and rejected on 09.10.2024.

12. More interesting that accused No.2 Nandakumar Ramesh Patil was arrested on same date 07.10.2024 at late hours i.e. after filing of anticipatory bail application by his father on 07.10.2024 and hence accused No.2 Nandakumar was produced before the Court on 08.10.2024 – within 24 hours for the first remand and was granted M.C.R. on 08-10-2024 itself and filed a bail application on 09.10.2024 and was granted bail on and enlarged on bail on 09.10.2024 – court closure hours. Hence he being under detention from 07.10.2024 to 09.10.2024 (both days inclusive) until being bailed out it is impossible for him to retain his mobile and sim in detention and call his father after his own arrest on 07.10.2024 late hours till 09.10.2024 court closure hours; more especially when no mobile is recovered in the personal search at the time of arrest of accused No.2 Nandakumar on 07.10.2024. Hence it is not prima facie evident that he was harboring his father accused No.1 from 07.10.2024 to 09.10.2024 as he himself was under detention and earlier to 07.10.2024 – i.e. from 04.10.2024 to 07.10.2024 accused No.1 was not absconding as he had filed Criminal M.A.No.188/2024 on 07.10.2024 for anticipatory bail and which was rejected on 09.10.2024. Hence whatever CDR details are produced on record for 04.10.2024 to 09.10.2024 allegedly in between accused No.1 Ramesh Ambaji Patil are legally and factually devoid of merit to hold any conversation or harboring in legal sense. At the most it may imply that calls were made and received at that sim numbers but not by whom.

13. Also it is pertinent to note that on the same day 09.10.2024, the accused No.3 Satish had filed Criminal M.A.No.191/2024 for anticipatory bail and was allowed on 11.10.2024 and hence it cannot be said that he was absconding or accused No.1 & 2 were absconding and he was harboring them.

14. So the allegation of harboring is prima facie not made out from 04.10.2024 till 09.10.2024 (inclusive of both days) and it is only thereafter – from 10.10.2024 to 14.10.2024 that the accused No.1 was yet to be arrested. It is more important fact to note that the police had not claimed even a single PCR for accused No.2 Nandakumar on the date of his arrest 07.10.2024 and production before the magistrate on 08.10.2024 and was directly granted M.C.R. on 08.10.2024. Hence it is apparent that the investigating machinery was also then satisfied that accused No.2 had no knowledge of his father and neither harboring him or screening him. Else the police would have traced him. On the contrary accused No.1 was not absconding till 09.10.2024 as he has filed Criminal M.A.No.188/2024 rejected on 09.10.2024.

15. Hence as is rightly argued by the Ld. Defence counsel all the accused No.1 to 3 being relatives – accused No.1 being father and accused No.2 & 3 being sons reside at the same place and as the father accused No.1 as well as the sons accused No.3 had applied for anticipatory bail, mere phone contact between them do not bring out the offence of harboring even prima facie nor there is any witness who is investigated by the police to show that the accused No.2 & 3 had attempted to harbor their accused father for evading his arrest and such phone contact may be for knowing the progress of the anticipatory bail applications as such.

16. However there is a technical impediment of section 250(1) BNSS about 60 days of limitation for filing discharge application. - It appears for committal cases but recently by a judgment it has been also observed to be applicable to POCSO cases and hence it goes to the root cause of limitation as in the present matter the discharge application is filed near about one and half year of filing the chargesheet. Hence it is necessary to give opportunity to the defence and to the Ld.PP to clarify this law position. Hence matter is adjourned today.

Alibag
Dt. 30.12.2025

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

17. Thereafter heard both the ld. Defence counsel as well as Ld.A.PP. Also perused the recent case law of **Narottam Prusty Vs. State of Odisha & Anr. CRLMC No.1731/2025; DD:22-09-2025** (Hon'ble High Court of Orissa at Cuttack) wherein interpreting the statutory provisions of the Section 251 of the B.N.S.S. - wherein a time limit of 60 days from the date of first hearing on charge, has been provided to frame charge in writing, the Hon'ble High Court has held vide para No.10 that Section 250(1) of the B.N.S.S. provides the time limit of 60 days from the date of commitment of the case u/s 232 within which the discharge application may be filed by the accused and in case of POCSO matters also the said provision shall apply to the proceedings before a Special Court which shall be deemed to be a Court of Sessions and the person

conducting prosecution shall be deemed to be a public prosecutor and provisions of chapter 8 of the POCSO are to be read harmoniously with the procedure of B.N.S.S. and both can coexist without any conflict. It also has given certain guidelines while framing charge - vide para 33 of the judgment that-

“33. Keeping in view the analysis of the legal position made in the preceding paragraphs and further to clarify the confusion which has arisen after the POCSO Act was enacted and with the introduction of the Bharatiya Nagarika Suraksha Sanhita, 2023 (BNSS), this Court observes that the Special Courts trying cases under the POCSO Act should follow the following procedure while framing charge against the accused;

(i) Since no commitment procedure has been prescribed in the POCSO Act for the cases triable by the Special Court, the date of appearance before the Special Court or the date on which accused was brought before such court for the first time after cognizance of the offence is taken under Section 33(1) of the POCSO Act, 2012 such date shall be treated as the date of commitment for the purpose of Section 250(1) of the BNSS.

(ii) From the date of appearance of the accused/ the date when the accused was brought before the Special Court for the first time;

(a) the accused shall forthwith be provided with the police papers as provided in Section 231 of BNSS, if not already provided.

(b) the accused may prefer an application for discharge

within 60 days thereafter under Section 250(1) of the BNSS.

(iii) If the accused does not want to file an application for discharge, such intention shall be given in writing by the accused in the shape of a memorandum.

(iv) On filing of the memorandum as per clause-(iii), the Special Court shall proceed further to frame charges against the accused.

(v) In the event the accused files an application for discharge as per clause-(ii)(b) hereinabove, such application shall be considered under Section 250(2) BNSS after providing a reasonable opportunity of hearing to the accused and the prosecution and the same shall be disposed of forthwith i.e. not later than 60 days from the first date of hearing on charge.

(vi) Unless the accused is discharged under Section 250(2) of BNSS due to lack of sufficient ground to proceed against the accused, the Special Court shall proceed to frame charge against the accused within 60 days from the first date of hearing on charge under Section 251(1)(b) of the BNSS.

34. Accordingly, the CRLMC is disposed of. However, there shall be no order as to costs.”

18. On these parameters the chargesheet has been submitted on 26-11-2024 and registered as POCSO case No.55/2024 on 28-11-2024 and cognizance is taken on 02-12-2024 and the advocate for all the accused Mr. V. V. Gondkar – signatory and junior advocate of advocate P. M. Thakur has

received the chargesheet and papers on 02-12-2024 itself as per endorsement and signature below Exh.1 and on the said date the accused No.1 was still in custody – without bail but accused No.2 & 3 were on bail. Hence the date of 02-12-2024 is the deemed legal date of first appearance of the all the accused through their Ld. Counsel Mr. V. V. Gondkar and Mr. P. M. Thakur before this Special Court. And pertinent to note that on 02-12-2024; already the provisions of Section 250 & 251 of the new B.N.S.S. were in force from 01-07-2023 and hence mandatory since then to be complied and as it was the then advocate of the accused Mr. V. V. Gondkar and Mr. P. M. Thakur who had appeared and received charegsheet and papers on behalf of all the accused on 02-12-2024, it cannot be legally said that all the accused had no knowledge of law or no advocate and that the advocate has no knowledge of Section 250 & 251 of the B.N.S.S. even after one & half year. Despite so the then Ld. Advocate Mr. V. V. Gondkar and Mr. P. M. Thakur did not file any discharge application within 60 days from 02-12-2024.

19. Hence this application Exh.39 filed on 16-06-2025 by accused No.2 & 3 is beyond the statutory period of limitation of 60 days from the date of first appearance of the accused No.2 & 3 in this Special Court – and especially in contravention to the time limit of Section 250 (1) and 251 (1) of the B.N.S.S. and hence cannot be allowed. Hence order infra -

ORDER

1. Application Exh.39 by both the accused No.2 & 3 for discharge; is hereby rejected.

2. Both the accused No.2 & 3 shall remain present without fail before this Court on the next date and simultaneously the Jailer Talaja Jail shall produce the accused No.1 before this Court on the next date i.e. 09-01-2026 without fail for framing of charge.
3. The ld. Defence counsel as well as the Ld. A.P.P. to note and co-operate. At the same time the Senior Bench Clerk of this Court and the Stenographer to note and keep the charge ready on or before the next date – without fail. Be noted and complied.
4. Since this is Special Case – POCSO case it is hereby ordered that the same shall be expedited and all to co-operate and comply.

Alibag
Dt. 03.01.2026

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