

MHTH010001562026



Spl. (POCSO) Case No.12/2026
CNR No. MHTH01-00-156-2026

State of Maharashtra
(Through Kashimira Police Station,
C.R.No.524/2025)

... Prosecution.

V/s.

Suraj Shivkant Tiwari

...Applicant/accused

Appearances :

Smt. A. B. Patil-Bhamare, learned Special Public Prosecutor for the prosecution.

Shri. Raj D. Dali, learned Advocate for the applicant / accused.

ORDER BELOW APPLICATION EXHIBIT-3

This is an application filed under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking Regular Bail in connection with C.R.No.524/2025 registered with Kashimira Police Station, District Thane for the offences punishable under Sections 64(1), 65(2), 137(2) of the Bharatiya Nyaya Sanhita, 2023 and offences under Sections 4, 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012.

2] Shorn of unnecessary details, facts of the prosecution's case are as under:

i] Informant is the mother of victim girl aged 6 years.

The victim's father is a greengrocer. The accused is in acquaintance with informant's family, since previously the accused was working with informant's husband.

ii] On 29/11/2025 at around 7:00 p.m. informant, her husband, their son and the victim had gone to one marriage hall at Mira Road East to attend marriage ceremony. From the marriage hall, the accused took the victim girl on the pretext of eating ice-cream and took her to a garden under the bridge at Kashimira Naka, Mira Road-East. Then, the accused made the victim to lay down on the ground, removed her cloths, lowered his cloths and started pressing her chest. Similarly, the accused inserted his hand in the victim's panty and inserted finger in her vagina.

iii] At that time, one lady namely Daya Lukkat Shrisunder on hearing shouts of the victim went at the spot of incident. She saw that the accused was sexually harassing the victim. The witness shouted at the accused and hence, accused ran away.

iv] That witness then inquired with the victim about her parents. She took mobile number of victim's father from the victim. The witness was not having mobile phone at that time. Therefore, she requested the passer-by and from his mobile phone contacted the victim's father and informed about the incident. Accordingly, victim's parents rushed to the spot of incident. The victim narrated the incident to her parents and then F.I.R. came to be registered.

3] I have gone through the bail application and reply filed by the Investigating Officer at Exh.6. The learned Special

Public Prosecutor has also given say on the application overleaf. The victim's father objected the application by filing separate reply.

4] I have heard Shri. Raj D. Dali, learned Advocate for the applicant / accused and Smt. A. B. Patil-Bhamare, learned Special Public Prosecutor for the prosecution.

5] Learned Advocate for the accused would mainly submit that as the accused was mercilessly beaten by victim's father and other relatives, the accused lodged F.I.R. No.1220/2025 at Dahisar Police Station, Mumbai and as a counterblast, present F.I.R. came to be lodged by the victim's mother. The learned Advocate for the accused would then submit by inviting attention to the police statement of alleged eye witness Daya Lukkat Shrisunder that she has nowhere stated that accused inserted his finger in the vagina of the victim. Thus, according to the learned Advocate for the accused, offence of rape is not made out. At the most, according to him, offence would fall under the definition of outraging modesty.

6] The learned Advocate for the accused then submitted by inviting attention to the record that accused has suffered fracture and requires urgent knee replacement, else his leg may be required to be amputated. The learned Advocate for the accused submitted that the accused will obey the conditions of bail. Thus, the prayer for grant of bail is made.

7] Learned Special Public Prosecutor has submitted that the victim is small girl aged 6 years. The victim, not only in her police statement, but also in the statement recorded under section

183 of the Bharatiya Nagarik Suraksha Sanhita, 2023, has specifically stated about the entire incident. Even, the informant in the police statement as well as in the statement recorded by learned Magistrate has stated all facts. It is submitted that the offence is serious one and against the society. According to learned Special Public Prosecutor, in case of grant of bail, there is possibility of repetition of offence, tampering of evidence and abscondence of accused and hence, she prayed for rejection of bail application.

8] I have considered the submissions of both sides. Perused the record.

9] True it is that, the F.I.R. lodged by the accused at Dahisar Police Station against the victim's father and his relatives is first in point of time and thereafter, the present F.I.R. came to be lodged. However, on going through the copy of F.I.R. No.1220/2025, I find that allegedly, the incident narrated in the F.I.R. in respect of abusing and beating the present accused, took place on the ground that the accused had taken the victim with him from marriage hall. Therefore, at this stage, it cannot be said that only because accused had lodged F.I.R. against victim's father and other relatives, as a counterblast the present false F.I.R. came to be lodged.

10] Be it noted, the victim is a small girl aged 6 years. True it is that, the alleged eye witness in the statement recorded by police and also in the statement recorded by the learned Magistrate, has not stated about inserting finger by the accused in the vagina of the victim, however, the said witness has specifically

stated that she had been to the spot of incident after hearing shouts of the victim. Definitely, after the accused inserted his finger in the vagina of the victim, she would shout and thereafter, the said witness might have reached to the spot of incident and at that time, she saw that accused was sexually harassing the victim.

11] It is to be noted that not only the victim is consistent about the narration of incident in her police statement as well as statement under Section 183 of the Bharatiya Nagrik Suraksha Sanhita, 2023, but also informant has stated entire incident in the police statement as well as in the statement recorded by learned Magistrate. The material collected by police *prima facie* goes against the accused. The offence is heinous one and against the society. In such serious offence, the accused does not deserve the grant of bail.

12] So far as the medical ground, as argued by the learned Advocate for the accused is concerned, on record, there is medical report submitted by Chief Medical Officer of Thane Central Prison alongwith letter Exh.6A. The letter states that the accused was initially sent to Chhatrapati Shivaji Maharaj Hospital, Thane. He was seen by Orthopedic on OPD basis. His X-ray was taken and treatment was given. The letter further states that the accused was then, sent to Sir J.J.Hospital on multiple times. He was examined by Orthopedic and treatment was given. The Chief Medical Officer has further stated that the accused will be sent to higher center for further treatment according to follow-up. Thus, if the medical treatment including knee replacement is required to the accused, then it can be taken care of by the State. Only on

medical ground, in such heinous offence, bail cannot be granted.
Hence, the order.

:: ORDER ::

- 1] Application at Exh.3 for Regular Bail in Special (POCSO) Case No.12/2026 is rejected.
- 2] Inform concerned Police Station accordingly.
- 3] The soft copy of this order shall be sent to the applicant/accused by e-mail through the Jail Superintendent, as per directions of the Hon'ble Supreme Court of India in SMWP (CRIMINAL) No.4/2021 dated 31.1.2023.

Thane
Date -24/03/2026

(Premal S. Vithalani)
Spl. Judge (under POCSO Act),
Thane.