

IN THE COURT OF SPECIAL JUDGE (POCSO), PANDHARPUR

Order Below Exh. 3 in Special (POCSO) Case No. 67/2025

Sunil Bhiva @ Bhivaji Kharat

... Applicant/accused

Vs.

The State of Maharashtra
(Through Police Station Officer
Sangola Police Station vide
C.R. No. 752/2025)

... Respondent/State

Appearance

Mr. U. C. Bagal, Ld. Advocate for the applicant / accused

Mr. S. S. Dulange Ld. APP for the Respondent / State

ORDER

This is second bail application filed by the applicant/accused for grant of regular bail in connection with C.R.No. 752/2025 registered with Sangola police station for the offences punishable under Sec.64(1), 64(2)(i), 64(2)(m), 351(2), 351(3), 3(5) of BNS and Sec.4, 8, 12 r.w. 42 of POCSO and Sec.3(1)(w) (ii), 3(2)(v) of SC and ST (PoA) Act.

02. Applicant/accused submitted that he is permanent resident of Sonalwadi, Tal. Sangola having immovable property. He has not committed any crime. He is innocent and he has no concern with the offence. He has no criminal antecedent. There is no direct or indirect evidence against him. From last 3 to 4 years he is staying at Pune. The

investigation of the crime is completed and charge sheet has been filed. Provisions of Atrocity Act and POCSO Act are not applicable against him. Still today police has not conducted T. I. Parade. Nothing is remained to be seized from applicant/accused. He is unmarried. Bail cannot be refused to the applicant merely on the ground that offence is serious. Hence, he prayed for releasing him on regular bail in connection with C.R.No. 752/2025 registered with Sangola city police station.

03. Learned APP filed say at Exh. 5 and resisted application on the ground that, the offence is serious in nature and it is punishable with imprisonment for life. The alleged offence is against the minor girl who belongs to scheduled caste. During the period of 01.10.2024 to 30.10.2024 the accused No. 1 under the pretext of marriage called the victim and forcibly committed intercourse with her, as a result of which victim became pregnant and gave birth to child. The statement of victim recorded under sec. 164 of Cr.PC. The accused may tamper with the prosecution witnesses, if he is released on bail. Lastly, learned APP prayed for rejection of bail.

04. The informant appeared and filed say at Exh. 6 and resisted the bail application on the ground that the offence is serious in nature. If bail is granted to the applicant/accused then he will put pressure on victim and her family. There is danger to their life if accused is released on bail. Lastly, she prayed for rejection of bail application.

05. The I. O. filed say vide Exh. 8 and resisted application on

the ground that, offence is serious in nature and it is against minor girl. It is also registered under Atrocity Act. Accused and informant reside in same vicinity. There is possibility of tampering of prosecution witnesses. The accused committed sexual intercourse with the victim. The victim became pregnant and she gave birth to child. Thus, lastly I.O. prayed for rejection of application.

06. Heard learned advocate Shri. U. C. Bagal for the applicant / accused and learned APP Shri. Dulange for the respondent state at length.

07. Perused contents of this application and say filed by investigating officer and I.O. By this application, applicant/accused prayed for grant of regular bail. Investigating officer and A.P.P. objected this application.

08. I have gone through the F.I.R. The name of the present applicant /accused is mentioned in FIR as accused. In FIR there are specific allegations against this applicant/accused that, during the period of 01.09.2024 to 30.10.2024 accused called victim behind her house and he gave false promise to victim to marry with her and he will take her at Pune. Accused committed repeated sexual intercourse with her without her consent, as a result she became pregnant and gave birth to male child. The role of this applicant/accused is specifically described in FIR. He has played active role. In fact he has only role in this crime.

09. The investigation is completed and charge sheet has been filed against the accused. The statement of victim is also recorded. In her supplementary statement the victim has also stated that, the accused forcibly repeatedly committed sexual intercourse with her. Before M.O. the victim has given history in which she has stated about forceful act committed by the accused with her. It is material to note that, the said history was given by the victim herself. Therefore, the said history given by the victim cannot be discarded. It also reveals that, the victim has become pregnant due to act of accused. Medical evidence supports prosecution case. The police has collected DNA sample for medical examination and sent to CA. The victim is minor. Therefore, her consent is immaterial. The accused took disadvantage of the victim and forcibly committed the act with victim against her wish.

10. Thus, the offence is very serious and heinous one. The punishment provided for the alleged offence is life imprisonment. The FIR itself shows that at the time of incident the victim was minor. The consent of victim is immaterial. It is pertinent to mention here that, charge sheet is filed against the accused/applicant under section Sec.64(1), 64(2)(i), 64(2)(m), 351(2), 351(3), 3(5) of BNS and Sec.4, 8, 12 r.w. 42 of POCSO and Sec.3(1)(w) (ii), 3(2)(v) of SC and ST (PoA) Act on 14.10.2025. Since filing of charge sheet no circumstance is changed. Moreover in such type of serious and heinous crime committed against a minor girl of scheduled caste, filing of charge sheet cannot be considered as ground to release accused on bail.

11. There are statements of witnesses, which corroborate the version of informant. Thus, in the form of charge sheet there is sufficient material on record to show the involvement of the accused/applicant in the crime and hence he cannot be granted bail.

12. The Ld. Advocate for applicant/accused submitted that, in the statement recorded by the Ld. Magistrate under section 183 of BNSS of the victim, the victim has not stated the role of applicant/accused in the crime. She has not stated about sexual intercourse. Hence, applicant/accused is entitled for grant of bail. I have gone through statement of victim recorded by Ld. Magistrate. No doubt in her statement recorded under sec. 183 the victim nowhere stated about sexual act committed by the accused. However in FIR itself the victim has specifically described the role of applicant/accused. Besides in her supplementary statement also the victim has specifically stated that, accused on the pretext of marriage committed repeated sexual intercourse with her. Thus, I found no substance in the contention of Ld. Advocate for accused that, accused is entitled for bail.

13. Ld. Advocate for accused relied on order in Bail Application No. 4621/2024, dated 13.02.2025, **Mohammed Ajaan Khav Versus The State of Maharashtra & Anr.**, wherein held that, 'it is seen that multiple decisions of the Supreme Court and High Court have favoured the release of young offenders on bail pending trial especially in consensual relationship so that the regressive influences of jail environment can be

avoided and keeping in mind the principle of best interest in the aforesaid circumstances. Thus, in the light of the above observations, I am of the view that the applicant is entitled to bail'. With due respect to the above observations of Hon'ble High Court, it is pertinent to mention here that, facts in case in hand are different. There are specific allegations against the applicant/accused that he has committed forcefully sexual intercourse with her. Victim is minor. Her consent is immaterial. In this case relation of applicant/accused did not remain to the extent of love only. But accused/applicant committed intercourse with victim, due to which she became pregnant and gave birth to child. Thus, in my view the facts of the reported case and facts of the present case are not similar. Benefit of above observations of Hon'ble High Court cannot be given to the applicant/accused. Therefore, the aforesaid ruling submitted by the learned advocate for the applicant is not helpful to the accused.

14. In view of above observations and facts delineated herein above the applicant is not entitled for bail. The application needs to be rejected. Hence, I proceed to pass following order :

ORDER

1. Bail application filed by accused Sunil Bhiva @ Bhivaji Kharat at Exh. 3 in Special (POCSO) Case No. 67/2025 is hereby rejected.
2. Bail application is disposed of accordingly.

(A. S. Salgar)

Date : 31.01.2026

Additional Sessions Judge, Pandharpur

CERTIFICATE

I affirm that, the contents of this PDF file are same word to word as per the original.

01. Name of the Stenographer - Santosh Vilas Ghongade.
02. Name of the Court - Court of Dist. Judge 02,
Pandhapur.
03. Order/judgment signed by P.O. - 02.02.2026.
on
04. Order /Judgment uploaded on - 03.02.2026.