

IN THE COURT OF ADDITIONAL SESSIONS JUDGE, WARDHA
COMMON ORDER BELOW EXH.33 AND 12 (BAIL APPLICATION)

IN
Spl.Case No.35 OF 2025
(CNR. NO. MHWHR0100-0705-2025)

IN
[CR NO.: 124/2025 PS. Arvi]

- 1] **Shivam s/o Ashok Sarsar,**
Age: 27 Yrs, Occ- Labour
R/o: Walmik Ward, Arvi, Tah. Arvi and Distt.Wardha.
- 2] **Akshay s/o Chaganrao Parwe**
Age: 22 Yrs, Occ- Labour
R/o:Balaji Ward, Arvi and Distt.Wardha. . **Applicants/Accused**

V/s.

State of Maharashtra
Through its P.S.O.
PS. Arvi, Distt.Wardha.

... Respondent/State.

.....
Appearance:-

Mr. S.G. Bakhade Adv. for applicant/ accused.
Mr. P. P. Soitkar, Ld. A.P.P for Respondent State.

.....
CORAM : S.M.MENJOGI,
DJ-3 and ASJ, Wardha

DATE : 18th November, 2025.

ORDER

1. This is an application filed by applicants/accused **Shivam Ashok Sarsar and Akshay Chaganrao Parwe** for grant of bail U/s. 483 of BNSS in Crime No.124/2025 U/s. 137(2), 64(1)(2)(Z)(T), 70(2), 78(2) of BNS and Sections 4, 6 of POCSO Act registered at PS. Arvi, Distt. Wardha.

2. Case of Prosecution , in short, is as under :

..2..

That, on 11.2.2025 victim lodged report that she got acquainted with Samyak Kalbande on Instagram on 9.2.2025. He called her at Gandhi Chowk Arvi to meet her on 10.2.2025 at 7 pm. He took her on his motorcycle to the house of his relatives. He committed sexual intercourse with her against her consent and willingness. Somebody knocked the door of house and hence, Samyak opened the door. Three persons including applicants entered in the house and committed sexual intercourse with her. After some time, Samyak returned with his friend and knocked the door. Therefore, those three persons left the house. Victim narrated the incident to her mother in the night. Based on these allegations, offence came to be registered against applicants and 2 others.

3. Advocate for the applicants submitted that accused are innocent and have not committed any offence. Investigation is completed and chargesheet is filed in the court. Applicants are arrested on 11.2.2025 and now they are in Jail. Further detention in jail is not necessary. Hence, applicants have prayed for bail.

4. Prosecution has filed its reply and submitted that accused and victim are resident of same village and if they are released on bail, they may pressurize victim and other witnesses. Accused Shubham has prepared VDO of said act in his mobile. He is identified by victim in T.I.Parade. Hence, Investigating Officer prayed for rejection of this application for bail.

5. Notice was issued to victim. Victim appeared in the court with her mother and filed her no objection for grant of bail.

6. I perused the Chargesheet and heard both sides. I have gone through the Law laid down in respect of grant or refusal of bail, in following cases by the Hon'ble Supreme Court :

- 1] Sanjay Chandra -Vs- C.B.I.(2012) 1 SCC 40
- 2] Moti Ram -Vs- State of M.P, (1978) 4 SCC 47
- 3] Babu Singh -Vs- State of U.P, (1978)1 SCC 579
- 4] Vaman Narain Ghiya -Vs- State of Rajasthan, (2009) 2 SCC 281
- 5] Siddharam Mhetre -Vs- State of Maharashtra, (2011) 1 SCC 694
- 6] VivekKumar-Vs- State of U. P, (2000) 9 SCC 443
- 7] Prahlad Singh Bhati -Vs- NCT, Delhi, (2001) 4 SCC 280
- 8] State of U.P -Vs- Amarmani Tripathi, (2005) 8 SCC 21
- 9] Prahlad Singh Bhati .Vs. NCT, Delhi (2001)4 SCC 280
- 10] Gurcharan Singh .Vs. State (Delhi Admn.) (1978)1 SCC118.
- 11] Kalyan Chandra Sarkar .Vs. Rajesh Ranjan (2004) 7 SCC 528
- 12] Ram Govind Upadhyay .Vs. Sudarshan Singh (2002)3 SCC 98
- 13] Puran .Vs. Rambilas (2001) 6 SCC 338.
- 14] Neeru Yadav .Vs. State of UP,AIR 2015 SC 3703
- 15] Sharad Kumar.Vs...C.B.I, MANU/DE/2374/2011
- 17] Bhadresh .Vs. state of Bihar, (2016)1SCC 152
- 18] Bharat Choudhary .Vs. State of Bihar (2003) 8 SCC 77
- 19] Munish Bhasin .Vs. State (NCT), (2009)4 SCC 45
- 20] Niranjana Singh .vs. Prabhakar Kharote AIR 1980 SC 785,
- 21] State of M.P .Vs. RamKishna Balothia AIR 1995 SC 1198
- 22] Pokar Ram .Vs. State of Raj.AIR 1985 SC 969
- 23] Samunder Singh .Vs. State of Raj. AIR 1987 SC 737
- 24] Ravindra Saxena .Vs. State of Raj. (2010)1 SCC 684
- 25] Pravinbhai Patel .Vs. State of Gujarat (2010)7 SCC 598
- 26] Ram Govind Upadhay .Vs. Sudarshan Singh (2002) 3 SCC 8,
- 27] State of Mah. .Vs. Anand Dighe AIR 1990 SC 625,

- 28] **Anil Kumar Tulsyani .Vs. State of U.P (2006)9 SCC 425**
- 29] **Sushila Aggarwal vs State (NCT) (2020) 5 SCC 1**
- 30] **Arnab Goswami vs State of Mah. (2020) ALL MR(Cri) 4347**
- 31] **Mohammad Zubair vs State of NCT,Cri.W.P.279/ 2022 (SC)**
- 32] **Satender Kumar Antil vs CBI SLP(Cri) 5191/2021(SC)**

Dt.11.7.2022

and considered the following factors while deciding this bail application :

- (i) Whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
- (ii) Nature and gravity of the charge;
- (iii) Severity of the punishment in the event of conviction;
- (iv) Danger of the accused absconding or fleeing, if released on bail;
- (v) Character, Behaviour, Means, Position and Standing of the accused;
- (vi) Likelihood of the offence being repeated.
- (vii) Reasonable apprehension of the witnesses being tampered with and
- (viii) Danger of justice being thwarted by grant of bail.

7. In the light of above citations, I examined the facts. After completion of investigation, charge-sheet is filed in the court. In case of **Mohammed Ajaan Khan ..Vs..The State of Maharashtra & Anr. BAIL APPLICATION NO. 4621 OF 2024 .. CORAM : MILIND JADHAV, J. DATE : FEBRUARY 13, 2025** observed that.....

In the case of **Sunil Mahadev Patil Vs. State of Maharashtra BA No. 1036 of 2015 decided on 03.08.2015 (Corum; Honble Justice Mrudula Bhatkar)** which states that consensus of the prosecutrix who is below the age of 18 years is a mitigating circumstance for trial Court to consider, especially while dealing with bail Applications. The relevant paragraph

Nos. **8, 9 and 11** of the said decision read thus:-

“8. It is to be noted that the case of S. Varadarajan was decided in the year 1967 when the women were not enjoying the freedom which today the women have. Albeit the Hon'ble Supreme Court then has taken a pragmatic view and has acquitted Varadarajan. Now, we come across such cases everyday. If a girl is a minor between the age group of 15 to 18 years and if it can be safely inferred that her consent was obvious, then it is a mitigating circumstance. Some trial Courts dealing with such Bail Applications, especially after Nirbhaya case, started taking a strict approach and the accused are denied the bail only on the ground that the prosecutrix being minor below 18 years, her consent is immaterial, therefore, in the case of rape on such minor, no bail can be granted. This is a matter of concern.

8. In this case in my hand age of victim was 16 Yrs and 9 Months at the time of alleged incidence. She went with Samyak Kalbande to the house of his relative on his motorcycle. Where alleged incidence took place. During her medical examination, in the history given to medical officer, she stated that she was in love with one Abhishek Sonparate and she had sexual intercourse twice with him with her consent and willingness. No history of use of contraceptive was given by her but, police has seized used and unused condoms from the spot. Old multiple tears on hymen were found. There was no redness or inflammation on it. Notice was issued to victim. She appeared in the court with her mother and stated that she has no objection to release accused on bail.

9. It is not expected to scrutinize evidence minutely in bail order as held by Supreme Court in case of **Kalvakuntla Kavitha .Versus. Directorate of Enforcement, 2024 INSC 632** and **Gudikanti Narsimhulu & Ors. vs.**

Public Prosecutor, High Court of Andhra Pradesh (1978) 1 SCC 240. It is also unnecessary to give lengthy reasons at the time of granting bail. Hence, I am not discussing evidence here. Victim has given no objection to release the applicants on bail. Therefore, question of pressurizing her does not arise. Mobile handset of accused is seized and sent for forensic examination. Accused are arrested on 11.2.2025 and since then, they are in jail. Accused Shubham and Pranay are already released on bail. Therefore, their further detention in jail is not necessary. Hence, I pass the following order.

ORDER

1. Bail Applications at Exh.33 and 12 are allowed.
2. **Applicants Shivam Ashok Sarsar and Akshay Chaganrao Parwe** shall be released on bail upon executing PR.bond of Rs. 50,000/- each with one or more sureties in the like amount in Crime No.124/2025 U/s. 137(2), 64(1)(2)(Z)(T), 70(2), 78(2) of BNS and Sec. 4, 6 of POCSO Act registered at P.S. Arvi, Distt.Wardha.
3. They shall not pressurize Victim, complainant and any prosecution witness and shall not commit any offence.
4. Hamdast of release warrant be granted if requested so, after furnishing bail.
5. Cri.Bail Applications Exh.33 and 12 are disposed of accordingly.

Date: 18.11.2025

(S.M.Menjoge)
Spl. Judge(POCSO),
Wardha.

Directly typed on : 18.11.2025

Signed by P.O. on : 18.11.2025

..7..

“CERTIFIED TO BE TRUE AND CORRECT COPY OF THE ORIGINAL SIGNED JUDGMENT/ORDER.”

18.11.2025
UPLOAD DATE AND TIME

VINOD V. KADU (Gr-1)
NAME OF STENOGRAPHER

Name of the Judge (with Court Room No.)	S.M. MENJOGE
Date of Pronouncement of ORDER	18.11.2025
ORDER signed by P.O. on	18.11.2025
ORDER uploaded on	18.11.2025