

ORDER BELOW EXH.1

(Akshay Ashokrao Madavi State of Maharashtra)

1] The present application for bail has been filed on behalf of the accused who has been arrested by the Arvi Police Station in crime no.408/2026 registered for the offences punishable under section 64(2)(i) (m) of the Bharatiya Nyaya Sanhita, (here-in-after referred as to “the BNS”), under section 4 of the Protection of Children from Sexual Offences Act, 2012 (here-in-after referred as to “the POCSO Act”) and under section 9 of the Prohibition of Child Marriage Act. The accused is presently stated to be in Magisterial custody in the jail.

2] The FIR in question will show that it had come to be lodged by the victim on 8-7-2026 wherein she stated her age to be 18 years and 5 months. With regard to the facts of the matter, the victim stated that she and the accused used to reside in the same locality and that his family members had approached her mother by giving a marriage proposal for her. Thereafter, as the victim’s mother agreed to the said proposal, her marriage with the accused came to be performed on 1-9-2025 at a Shankar temple in Butibori. Since then, the victim had started cohabiting with the accused resulting in she conceiving from him. Due to the victim being pregnant, she had gone for treatment to the hospital where it was found that she was still a minor. The doctor therefore, informed the police about the situation after which the FIR came to be lodged at the instance of the said victim girl. The accused i.e. the husband of the said girl, then came to be arrested for the offences stated here-in-above.

3] As per the application for bail, the contents of the FIR will itself show that the victim girl was a major on the day of her marriage due to which the same was perfectly legal and valid. Stating that the victim’s date of birth had been incorrectly mentioned in her Adhar card, due to which the

doctor of the Sub District Hospital, Arvi had concluded that she was a minor, the same as per the application for bail is nothing but a mistake. Even otherwise, it has been stated that the major part of the investigation had been completed and the physical presence of the accused is no longer necessary for the purposes of the said investigation. Not only this, but the Advocate for the accused has also pointed out that the victim requires his help for delivery and for taking care of her as he is her husband. Therefore stating that, the accused would not abscond as he is a permanent resident of Arvi in Dist. Wardha, that the informant being his wife, she will not face any danger from him, that his further detention will not serve any purpose as also that he will abide by all the terms and conditions which may be imposed upon him, the said accused – as per his Advocate, is entitled to be released on bail.

4] The informant has filed her reply (Exh.6). In the same, she has stated that she was in relationship with the accused and had married him after she had reached the age of 18 years. Pointing out that she is now pregnant and requires the presence of her husband for her treatment, she has sought the release of the accused.

5] The Investigating officer has filed her reply dtd.20-7-2026. Therein, after stating the facts of the matter, it has been stated that the accused should not be released on bail as there is a possibility of he threatening the witnesses and the victim. Contending that the accused may abscond, that he will not cooperate in the investigation if released, the Investigating officer has sought the rejection of the application for bail.

6] Heard Shri Tripathi Advocate for the accused and Shri Soitkar the Id. APP for the State. Perused the case diary. Prima facie, the material before me as available in the case diary will indicate that the victim's date of birth is 24-1-2008. Hence, on the date of her marriage with the accused i.e.

on 1-9-2025 she was 17 years and some months old. Obviously therefore, the said marriage will not have any consequence vis-a-vis the POCSO Act and the BNS. This is because, the consent of a girl aged less than 18 years is inconsequential under the criminal law.

7] Be that as it may, it will have to be noted that presently, I am not deciding the matter after a trial on merits, but I am only deciding an application for bail. Though the punishments prescribed for the offences registered against the accused are indeed severe in nature, the fact remains that the victim and the accused being a couple, there does not arise any question of the accused harming the informant or the other witnesses in the matter. The Investigating officer has also not been able to show the fact of the accused suffering from any criminal antecedents. It is therefore, difficult for me to believe that the accused would abscond, if released. The said accused now being detained in the jail, it is clear that his physical presence is also not necessary for the remaining investigation. The victim girl also being at the last stages of her pregnancy, she will certainly require the support of the accused. In such circumstances, I am of the view that the accused can be said to have made out a case for grant of bail. Hence, I proceed to pass the following order.

ORDER

1] The accused Akshay Ashokrao Madavi, who is arrested in crime No.408/2026 registered by Police Station Arvi for the offences punishable under section 64(2)(i)(m) of the Bharatiya Nyaya Sanhita, under sections 4 of the Protection of Children from Sexual Offences Act and under section 9 of the Prohibition of Child Marriage Act, be released on bail on he executing a P.R. bond of Rs.20,000/- and furnishing one surety in the like amount on the following conditions-

- a) That he shall not contact any of the witnesses in any manner.
- b) That he shall furnish the details of his residence, contact number to the Investigating Officer.
- c) That he shall appear before the Investigating officer as and when called by him till the filing of the charge-sheet.
- d) That he shall furnish the details of three of his blood relatives along with the necessary documents regarding their identification and address.

Date : 29.07.2026

(Ms. S.J. Ansari)
Special Judge (POCSO Act), Wardha.

Certificate

“I affirm that the contents of the P.D.F. File order are same word for word as per original order.

S.V. Dakhane,
Stenographer G-1