

IN THE COURT OF SESSIONS, YAVATMAL

MHYA010005322026



CBA No.53/2026

Badal Vs. State

Order Below Exh.01

(Passed on 12th March, 2026)

This bail application is moved under section 483 of BNSS by the accused Badal Aalesh Rathod in relation to FIR No.358/2025 registered at P.S. Parva for the offence punishable under sections 137(2), 64(2)(m), 65(1) of BNS and Section 4 r/w. 3(2)(va), 3(2)(v) of Scheduled Caste and Scheduled Tribe Prevention of Atrocity Act.

2] The prefatory contention of the applicant/accused is that he is resident of Daheli, Tanda, Kelapur, Yavatmal. He has movable immovable there. He is peace loving person who has not committed any offence. His past life is unblemished. On 23.06.2025 informant lodged report alleging him to have kidnap his minor daughter from their house. On basis of report crime is registered. He has been arrested. However, he has not committed the alleged crime. The alleged victim is of understanding age. He was in love with her. Both of them have solemnized marriage and she was happily residing with him. Now the investigation is completed. Alleged victim is in advance stage of pregnancy of 8 months and in need of him. He is willing to abide all condition. Hence, application for relief laid *ante*.

3] Say of APP, I.O. informant and victim was called. APP vide his say (Exh.7) has strongly opposed the bail application. It is contended that prima-facie case is made out. Facts of the case have been elucidated. Investigation is not yet completed. It clearly projects commission of offence by accused. If he is released on bail there is possibility of repetition. There are also chances to abscond. The nature of offence is serious.

4] IO vide say Exh.8 has resisted application on the ground that the accused in spite of being aware of caste of victim committed offence. He was having love affair with her. Since he and victim are fellow villagers there is chance that on being set at liberty he might pressurize her.

5] Informant vide pursis Exh.5 has contended that his daughter was in love relationship with the accused and they had fled away because of which he had lodged report on basis of which crime was registered and accused arrested. He stated that he however has no objection presently to the accused being granted bail since there is no danger from him. Said pursis bears signature also of victim.

6] The defence-counsel argued that no PCR was sought by the police during remand stage which goes to show that there is no need of custody. Taking this Court through remand paper (Serial No.2/ list Exh.4) ground for arrest (Serial No.4/ list Exh.4) intimation letter (Serial No.5/ list Exh.4), affidavit of victim and her parents (Serial No.6 to 8/ list Exh.4) he posited that relationship between victim and accused was consensual.

Inviting the attention to pursis Exh.5 tendered by victim and her father he expressed that they had no objection to his enlargement. He concluded that he was willing to abide all condition. He implored for bail.

7] Refuting the defence argument APP proffered that say may be considered for adjudication. Case diary is tendered.

8] Heard both sides. *Prima-facie* involvement, nature, gravity of charge, position and standing of the accused, also severity of punishment are some of the important factors to be taken into account while exercising discretion for bail. Nevertheless, these are not exhaustive. While exercising discretion in considering question of grant or refusal of bail, besides factors laid above the Court must also give regard to the principle of "Bail is a rule and jail in an exception". *Albeit* when it would apply is a question of fact since no inexorable formula can be applied for the same.

9] The defence prayed for bail on the ground that the relationship was consensual and the victim is not even minor. The prosecution combated the same. Pursis (Exh.5) given by informant and victim render prosecution defence probable. Also documents referred above filed alongwith list Exh.4 also buttress the defence contention. Moreover, at this nascent tier the merits of the case which can be deliberated upon only during trial cannot be gone into. *Mens-rea* attributed to the accused cannot be cogitated upon in depth at this stage. Parameters needs to be

considered only to the limited extent of considering the application in hand.

10] Prosecution through its say Exh. 7 apprehended that accused on being enlarged might tamper with evidence. On going through prosecution say (Exh.7), case diary it is seen that panchanama has been done, medical examination has been carried out. Blood samples of accused, victim, baby are collected for DNA test. Relevant papers have been gathered. Statement have been reduced under section 183 of BNS also. Seized samples have been forwarded for forensic analysis. Thus, the chances of the accused tampering with evidence are found sporadic.

11] As has been held by Hon'ble Apex Court in catena of judgments any accused is to be kept in extended detention only when the same is imperative under factual matrix of the case. However, as no recovery or discovery at the instance of the accused is shown to be pending as would require his further physical custody that need is not perspicuous in the instant case.

12] The prosecution has opposed release expressing apprehension of re-occurrence of aggravated crime. However, mere apprehension cannot stampede the Court into complacent refusal from considering bail application. This is because it is no longer *res integra* that the object of bail is to secure the presence of accused person at trial. The object is neither punitive nor

preventive. The test to be applied is whether the presence can be secured at trial.

13] The prosecution has combated that accused on being enlarged might pressurize victim and witnesses. Nevertheless informant and victim through their oral contention have not supported the existence of any such fear. They stated that they had no objection to him being enlarged. Even in her statement before Magistrate under section 183 of BNS victim has reiterated the same. Additionally the accused has submitted that he is willing to abide with conditions. He is shown to be resident within jurisdiction of this Court. None of this is negated by prosecution. No criminal antecedent on part of the accused have been brought forth. There are thus elicited no exceptional factors which manifest likelihood of him interfering, polluting, thwarting the process of investigation so as to raise exception to the above given object. Moreover, apprehension of danger to life of victim can be addressed by imposing conditions. The application thus deserves to be countenanced.

14] Before saying omega it is clarified that any observation made hereinabove are not to be construed to be reflection on the merits of the case and shall remain confined to disposal of this application alone. Hence, I ordain as follows.

ORDER

1. The application is allowed.
2. Accused Badal Aalesh Rathod in connection with Crime No.358/2025 registered at P.S. Parva for the offence punishable

under sections 137(2), 64(2)(m), 65(1) of BNS and Section 4 r/w. 3(2)(va), 3(2)(v) of Scheduled Caste and Scheduled Tribe Prevention of Atrocity Act, be released on PR. of Rs.50,000/- (Fifty Thousand Only) with one surety in the like amount, on following terms and conditions:

Conditions :-

- (i) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the Court.
- (ii) The accused not to indulge in any illegal activities or in committing the offence of like nature.
- (iii) He shall produce verified copy of his Aadhar Card, Cell phone number and other address proof.
- (iv) His surety shall produce verified copy of his Aadhaar Card, contact details, copy of Bank Pass-Book and other address proof.
- (v) Hamdast allowed.

Date : 12/03/2026.

(S.R.Sharma)
Additional Sessions Judge,
Yavatmal