



Avinash Maruti Waghmare
Vs.
State of Maharashtra
(Through Baramati City P.S.)

ORDER BELOW EXH.1

This bail application is filed by accused No.2-Avinash Maruti Waghmare to release him on regular bail under Section 483 of the Bharatiya Nagarik Suraksha Sanhita (BNSS), in Crime No. 192/2025, registered at Baramati City Police Station, for offences punishable under Sections 137(2), 64(2)(f), 69 of the Bharatiya Nyaya Sanhita (BNS), Sections 4, 6, 8 and 12 of the Protection of Children from Sexual Offences Act (for short POCSO Act), and Sections 9, 10 and 11 of the Prohibition of Child Marriage Act.

2. Heard Ld. Advocate for accused and Ld. A.P.P. for State. Perused FIR, documents and case papers placed on record.

3. On 09.06.2025, complainant being grandfather of victim aged 16 years, lodged a report, on which, FIR came to be registered at Baramati City Police Station, alleging that on 01.06.2025, at about 5.00 p.m., his grand daughter-victim had been to medical store for bringing medicine. At about 8.00 p.m., when he returned home, another grand daughter told him that victim did not return home. Informant searched her at his relatives, friends of victim and nearby places, where she was not found. Therefore, he lodged report of kidnapping the victim by unknown person. FIR was registered and investigation commenced. Victim was searched and her statement was recorded, wherein, she stated that accused no.1-Itihas Suresh Rathod kidnapped her enticing for marriage, and

committed forcible sexual intercourse with her. She has also stated that on 20.03.2025, accused no.3-Dattu Appaji Kamble, accused no.4-Manisha Maruti Waghmare and accused no.5-Maruti Tayappa Waghmare compelled her to forcibly marry with present accused knowing that she was minor, who forcibly made sexual intercourse with her against her will. During investigation, present accused was arrested on 29.07.2025, and since then, he is in custody.

4. It is submitted by Ld. Advocate for accused that allegations against the present accused are vague without any proof that his marriage was solemnized with minor victim after collusion with accused nos. 3 to 5. He submitted that accused is alleged to be former husband of victim against whom, there is no proof. The allegations are actually made against accused no.1 who enticed the victim on the promise of marriage, kidnapped her and had sexual intercourse with her. Accused no.3 is the grandfather of the victim. Accused belongs to scheduled caste. There was no forcible act on the part of accused. The victim is more than 16 years of age, and done voluntary act of absconding with accused no.1, with which, the present accused and his relatives have no nexus. Offence is wrongfully registered against them when the incident is alleged against accused no.1. The sections of law invoked against accused are not applicable. Accused is in custody since 29.07.2025 and investigation is already made from him. Nothing is to be recovered or investigated from accused further. He relied on following citation:

(i) ***Satish Eknath Kakade Vs. The State of Maharashtra [2024 ALL MR (Cri) 4141]***, wherein, Hon'ble Bombay High Court observed that:

“6. Since the objection of the learned APP was forceful, the father of the victim was called. The Court asked him why did he engaged a minor daughter with the applicant. Surprisingly, he explained that his wife was suffering from heart disease and he is suffering from brain problem. They had apprehension of their untimely deaths. So, they thought that the future life of the daughter should not be in danger. Hence, they have decided to see the betterment of the victim girl in their lifetime. Unfortunately, his wife has been recently died of the heart disease. They wanted to protect a daughter from the ill-eyes of the society. In those compelling circumstances, they decided the marriage of the applicant and victim. This may be a genuine ground and touching the societal structure of our country. The poverty is the biggest issue of our country. The reasons for deciding the marriage appears probable and with a good intent. Even the crime is registered, the applicant is ready to marry the victim after attaining her majority. These compelling circumstances needs to be considered. Hence, the applicant may be released on bail on certain conditions.”

(ii) *Satish @ Chand Vs. State of U.P. & Ors. [2024 ALLMR (Cri) Journal 97]*, in which, Hon’ble Allahabad High Court held as under:

“15. The challenge lies in distinguishing between genuine cases of exploitation and those involving consensual relationships. This requires a nuanced approach and careful judicial consideration to ensure justice is served appropriately.

16. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.”

5. On the other hand, Ld. A.P.P. for State submitted that after accused no.1 kidnapped the victim knowing that she is minor, they were apprehended and victim made statement regarding

earlier marriage with present accused by relatives of both in spite of the fact that she was below 18 years of age, and forcible intercourse by him with her. He submitted that accused is named in FIR. Investigation in the offence is going on. He submitted to reject the application.

6. Complainant-grandfather with victim appeared on notice and submitted their no objection to release present accused on bail.

7. As stated in the facts referred to above, it is during the course of investigation of offence against accused no.1, offence against the present accused and his relatives came to be registered of the alleged incident that occurred couple of years ago. The alleged incident by the present accused is clubbed with the incident under report against accused no.1 by the police station. Be that as it may, the present accused was arrested alongwith accused no.1 and was produced on 29.07.2025. Investigation is already made from the present accused. However, no charge-sheet is yet filed after 60 days on registration of offence. In the say filed by police, tampering the witnesses and obstructing investigation are the grounds mainly raised to reject the application. However, the complainant appeared and has no objection to release the accused, who is the maternal grandfather of victim. Victim also appeared with him and raised no grievance against accused. Ld. Advocate for accused relied on cases of *Satish Kakade* and *Satish alias Chand (supra)*, in which, accused therein were released. Thus, there does not appear to be any threat or tampering of evidence of victim or the complainant. Considering the fact that accused is in custody since 29.07.2025 and no further investigation is sought to be made, and complainant has no grievance to release the accused,

as conditions suitably may be imposed on him, accused may be released on regular bail on following conditions:

ORDER

1. Application is hereby allowed.
2. The applicant/accused-Avinash Maruti Waghmare shall be released on regular bail in Crime No.192/2025, registered at Baramati City Police Station, on his executing Personal Bond in the sum of Rs.50,000/- and a Surety in the like sum.
3. The Applicant/accused shall not enter in the village where victim is residing with her parents, as well as place of her education, or wherever she may go and stay, till further orders of the Court, in which, final report or charge-sheet will be filed.
4. The applicant/accused shall attend concerned police station, till filing of charge-sheet, as also, as and when called upon by police for the purpose of investigation and shall co-operate in the investigation.
5. The applicant/accused himself or through anyone on his behalf, shall not threaten, pressurize or dissuade complainant, victim, and any other prosecution witnesses directly or indirectly, and shall not tamper evidence.
6. The applicant/accused shall produce identity proof alongwith his contact number, and numbers of those persons who shall be approached in case the accused is found unavailable.
7. The applicant/accused shall not commit any offence during period of release.
8. Breach of any condition would result in cancellation of bail so granted.

Date :- 25.08.2025

(V. C. Barde)
Special Judge,
Baramati.

CERTIFICATE

I affirm that the contents of this P.D.F. file Order are same word for word as per original Order.

Name of Stenographer : V.B.Lalsangi
Stenographer (G-1)

Court Name : V. C. Barde
Special Judge,
Baramati, Dist. Pune.

Date of Order : 25.08.2025

Order signed by
Presiding Officer : 25.08.2025

Order uploaded on : 25.08.2025