



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
CRIMINAL BAIL APPLICATION NO.2228 OF 2025

Nilesh Suryakant Netake

...Applicant

*Versus*

The State of Maharashtra & Anr.

...Respondents

Mr. Chaitanya Purankar, for the Applicant.

Mr. D. J. Haldankar, APP, for the Respondent No.1-State.

Ms. Shanice Mansukhani, for the Respondent No.2.

Mr. Ajay Murlidhar Pataskar, Police Hawaldar, attached to Haveli Police Station, Pune, present.

CORAM: MADHAV J. JAMDAR, J.

DATED : 5<sup>th</sup> AUGUST 2025

**JUDGMENT:-**

1. Heard Mr. Purankar, learned Counsel appearing for the Applicant, Mr. Haldankar, learned APP appearing for the Respondent No.1-State and Ms. Mansukhani, learned Counsel appointed to represent the Respondent No.2.

2. This regular Bail Application is preferred under Section 439 of the *Code of Criminal Procedure, 1973* (“CrPC”) seeking that Applicant be enlarged on bail in connection with C.R. No.275 of 2021 dated 22<sup>nd</sup> December 2021 registered with the Haveli Police

Station, Pune. The said FIR has been lodged alleging commission of the offence punishable under Sections 377 and 506(II) read with 34 of the *Indian Penal Code, 1860* (“**IPC**”) and under Sections 3, 4, 5(g), 6, 7, 8, 9(g), 10, 11(ii), 12, 13, 14, 15 and 16 of the *Protection of Children from Sexual Offences Act, 2012* (“**POCSO Act**”) and Section 67-B of the *Information Technology Act, 2000*.

3. It is the main contention of Mr. Purankar, learned Counsel appearing for the Applicant that the Applicant was merely present when the incident took place and he has not played any role in the incident in question. He further submits that the Applicant has been arrested on 22<sup>nd</sup> December 2021 and till date there is no progress in the trial and therefore, the Applicant be enlarged on bail on the ground of long incarceration.

4. On the other hand, Mr. Haldankar, learned APP appearing for the Respondent No.1-State and Ms. Mansukhani, learned Counsel appointed to represent the Respondent No.2 strongly opposed the Bail Application. Both of them submitted that the material on record shows that the Applicant has played major role in the commission of crime and as the offence is very serious and

heinous the Applicant be not enlarged on bail. Both of them submitted that as the victims, other witnesses and the accused are staying in the same vicinity, there is very high possibility of accused pressurizing the witnesses and therefore, the Applicant be not enlarged on bail.

5. At the outset, it is required to be noted that this is a second Bail Application and the first Bail Application bearing Bail Application No.3551 of 2023 was allowed to be withdrawn by order dated 11<sup>th</sup> March 2024 passed by this Court. In the said order dated 11<sup>th</sup> March 2024, it has been specifically observed that as this Court was not inclined to grant bail, the Applicant has withdrawn the Bail Application. Thus, in effect the first Bail Application has been dismissed on merits. However, as contentions are raised by the learned Counsel appearing for the Applicant even on merits the same are considered.

6. Before considering the merits, it is required to set out parameters *inter alia* required to be taken into consideration by the Court while considering prayer for grant of bail. The said parameters are as follows :-

- a) Nature and gravity of circumstances in which offence was committed;
- b) Position and status of accused with reference to the victim and the witnesses;
- c) Likelihood of accused fleeing from justice;
- d) Likelihood of accused tampering with witnesses;
- e) History of the case as well as of its investigation.

It is also a settled legal position that the Court is not required to enter into a detailed analysis of the evidence at the stage of consideration of Bail Application.

7. The Hon'ble Supreme Court in the decision of *Ram Govind Upadhyay vs. Sudarshan Singh*<sup>1</sup> has held as follows :

*“4. Apart from the above, certain other which may be attributed to be relevant considerations may also be noticed at this juncture, though however, the*

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**1** (2002) 3 SCC 598

*same are only illustrative and not exhaustive, neither there can be any. The considerations being:*

*(a) While granting bail the court has to keep in mind not only the nature of the accusations, but the severity of the punishment, if the accusation entails a conviction and the nature of evidence in support of the accusations.*

*(b) Reasonable apprehensions of the witnesses being tampered with or the apprehension of there being a threat for the complainant should also weigh with the court in the matter of grant of bail.*

*(c) While it is not expected to have the entire evidence establishing the guilt of the accused beyond reasonable doubt but **there ought always to be a prima facie satisfaction of the court in support of the charge.***

*(d) Frivolity in prosecution should always be considered and it is only the element of genuineness that shall have to be considered in the matter of grant of bail, and in the event of there being some doubt as to the genuineness of the prosecution, in the normal course of events, the accused is entitled to an order of bail.”*

*(Emphasis added)*

8. If the present case is to be considered on the touchstone of the above parameters, then it is required to consider the material on record for considering *prima facie* case against the Applicant.

9. In the incident in question, there are two victims (Hereinafter those two victims are referred as “A” and “B”). The FIR has been lodged by the father of victim “A”. He has inter alia stated in the FIR as under:

“आज दि. 21/12/2021 रोजी रात्री 01:00 वा च्या सुमारास माझे वरील राहते घरी पोलीस आले व त्यांनी मला सहकारनगर पोलीस स्टेशन, पुणे येथून आल्याचे सांगून मला त्यांचेकडील असलेल्या मोबाईल मधील एक व्हिडिओ दाखविला. तो व्हिडिओ मी पाहीला असता त्यामध्ये आमच्या गावामधील माझ्या ओळखीची मुले नामे कुणाल राजेश भांगरे व निलेश सुर्यकांत नेटके हे माझा मुलगा “A” याचे सोबत जबरदस्तीने त्यास खोलीत कोंडून त्याची कपडे काढून त्याचेवर अनैसर्गिक संभोग करत असताना दिसले. म्हणून मी पोलीसांना माझ्या मुलाशी असे कृत्य करणा—या इसमांवर कारवाई व्हावी याकरिता सकाळी सहकारनगर पोलीस स्टेशनला येवून तक्रार देतो असे सांगितले.”

(Emphasis added)

English translation of the above is as under:

*“Today, on the date 21.12.2021, at or around 01:00 O’clock in the night, Police came to my aforesaid residential house and by telling me that they had come from Sahakar Nagar Police Station, Pune, showed me one video available in the mobile phone that they had in their possession. I saw that video. In the said video, I saw that Kunal Rajesh Bhangre and Nilesh Suryakant Netke, the boys from our village to whom I know, had forcibly detained my son by name “A” in one room, removed his clothes and had an unnatural sex with him. Therefore, in order that an action should be taken against those persons who had committed such an act with my*

*son, I told the Police that I would come to Sahakar Nagar Police Station in the morning to lodge my complaint.”*

10. The victim “A” in his statement recorded on 25<sup>th</sup> December 2021 has stated as follows:

“दिवाळीचे वेळी नक्की आठवत नाही मी दुकानात खायला आणायला चाललो होतो. तेव्हा मला दादया [REDACTED] याने जाडया दादयाच्या (ईश्वर शिंदे) घराचे खिडकीतुन भो—या इकडे ये असे म्हणाला. म्हणुन मी जाडया दादयाच्या (ईश्वर) च्या घरात चप्पल काढुन गेलो. घरात शेंडीवाला दादा (निलेश नेटके), आणि दहावितले दोन दादा [REDACTED] हे होते. हे सर्व माझ्या समोर आलेवर मी ओळखणार. जाडया दादाने मला पांढ—या खुर्चीत बसवले, मी बोललो कारे दादा काय दुकानात जायच का? तो म्हणला नाय. “B” दादा अगोदरच घरात होता. जाडया दादा “B” ला म्हणाला तु कपडे काढ? नाहीतर लय हानीन तेव्हा “B” ने त्याची सगळी कपडे काढली. शेंडीवालया दादाने माझी सगळी कपडे काढली. मी लय रडत होतो. सोडना दादा सोड म्हणत होतो. रडत होतो लय मी, [REDACTED] दादाने खिडकी लावली, जाडया दादाने “B”ला मारून त्याची शुची जागा माझ्या शीच्या जागेत घालायला लावली. मी रडत होतो मला किंचीत दुखल. तेव्हा जाडया दादाने फोन करून वकिल लवकर ये, वकिल लवकर ये असे म्हणाला भा—या जाईल, तेव्हा माझी कपडे घातली होती. फोन केल्यावर वकिल दादा लगेचच तेथे आला. त्याने मला कपडे काढायला सांगितली, मी कपडे काढली नाही, म्हणुन शेंडीवाल्या दादाने माझी कपडे काढली. शेंडीवाल्या दादानी माझ डोक त्याचे मांडीत जोरात दाबुन धरल, जाडया दादाने व्हि.डी.ओ. चालु केली, माझा दात शेंडीवाल्या दादाच्या मांडीला लागला, वकिल दादाने माझी शीची जागा लांब करून त्याची शुची जागा टाकली. मला शीच्या जागेवर जोरात दुखल तरी त्यान टाकलच. मी जोरात ओरडलो म्हणुन शेंडीवाल्या दादाने माझ्या तोंडात माझा टी शर्ट कोंबला. मला श्वास घेता येईना तेव्हा त्यांनी मला सोडल, म्हणुन शेंडीवाल्या दादाने मला सोडल व परत वकिल दादाने माझ्या तोंडात त्याची शुची जागा टाकली. त्याच्या शुच्या जागेतुन दोनदा खाली पांढर पाणी पडल. वकिल दादा मला करत होतो तेव्हा “B” ला खिडकीत थांबवल. नंतर मला जाडया दादानी कपडे घालायला लावली आणि “B”ला बोलावल. मी कपडे घातली जाडया दादा मला घेवुन बाथरूममध्ये गेला. मला डोळे पुसायला लावल, बाथरूममध्ये आतुन कडी घातली. बाथरूममध्ये मी लय रडत होतो. तेव्हा जाडया दादानी त्याची शुची जागा माझ्या तोंडात दिली व मागे पुढे केल. म जाडया दादान त्याच पांढर पाणी खाली पडल. मला उलटी येत होती.

दहावीतल्या त्या दोन दादांना मला वडापाव आणायला लावला. शेंडीवाल्या दादान मला आणि “B”ला शेजारी शेजारी बसवला. शेंडीवाल्या दादान मला काठीन थोड मारून वडापाव खायला लावला. वडापाव खावुन झाल्यावर शेंडीवाल्या दादाने माझ्या खिशात पैसे टाकले. हे कोणाला सांगितल तर तुम्हाला मारीन, वडयात फेकुन देईल, डुबवुन टाकीन असे म्हणाला. म मी तुथुन दुकानात गेलो आणि तेथुन घरी गेला.”

(Emphasis added)

English translation of the said statement, reads as under:

*“I do not recollect the exact time, but it was the time of Diwali Festival. I was going to a shop to purchase something to eat. At that time, ‘Dadya’ [REDACTED] called me from the window of the house of ‘Jadya Dadya’ (Ishwar Shinde), saying, ‘Bhorya, come here’. Therefore, I removed my footwear and entered the ‘Jadya Dadya’s’ (Ishwar) house. The ‘Shendiwala Dada’ (Nilesh Netke) and two ‘Dada’ [REDACTED], studying in tenth standard, were present there. I will identify all of them if they come before me. The ‘Jadya Dadya’ made me to sit in a white coloured chair. I said to him, ‘Dada, do you want me to go to a shop?’, to which he said ‘No’. ‘B’ ‘Dada’ was already present there in the house. ‘Jadya Dada’ said to ‘B’, ‘you remove your clothes, otherwise I will beat you a lot’. Therefore, ‘B’ removed all his clothes. The ‘Shendiwala Dada’ removed all my clothes. I was crying a lot and was requesting him, saying, ‘Leave, Dada, leave me’. I was crying a lot. [REDACTED] ‘Dada’ closed the window. ‘Jadya Dada’ beat ‘B’ and made him to insert his penis in my anus. I was crying. I suffered a little pain. At that time, ‘Jadya Dada’ made a telephone call and said, ‘Vakil, come early; Vakil, come early, Bharya will go’. At that time, I had worn my clothes. ‘Vakil Dada’ immediately came there on making a*

*telephone call to him. He asked me to remove my clothes. However, as I did not remove my clothes, 'Shendiwala Dada' removed my clothes. The 'Shendiwala Dada' held my head tightly between his thighs. 'Jadya Dada' started a video. My tooth touched to the thigh of 'Shendiwala Dada'. 'Vakil Dada' opened my anus wide and inserted his penis therein. Despite it hurt me a lot in my anus, he still inserted his penis. As I screamed loudly, 'Shendiwala Dada' stuffed my T-shirt in my mouth. When I could not breathe, they left me. Therefore, "Shendiwala Dada' left me and thereafter, again, the 'Vakil Dada' inserted his penis in my mouth. Then, a white water fell from his penis twice. When the 'Vakil Dada' was committing the act with me, "B" was made to stand near the window. Thereafter, 'Jadya Dada' asked me to wear my clothes and called "B". After I wore my clothes, 'Jadya Dada' took me to the bathroom, asked me to wipe my eyes and bolted the bathroom from inside. I was crying a lot in the bathroom. At that time, the 'Jadya Dada' inserted his penis in my mouth and he moved himself back and forth. Then 'Jadya Dada' released his white water down. I had a vomiting sensation. The two 'Dada' who were studying in tenth standard were asked to go and bring 'Vada-Pav' for me. The 'Shendiwala Dada' made me and the "B" sit next to each other. The 'Shendiwala Dada' beat me a little with a stick and made me have a 'Vada-Pav'. After I ate the 'Vada-Pav', the 'Shendiwala Dada' put some money in my pocket and threatened me saying, "if you tell this to anyone, I will thrash you, I will throw you into the stream, I will drown you". Then, from there, I went to a shop and from there to my home."*

(Emphasis added)

11. The victim “B” in his statement recorded on 25<sup>th</sup> December 2021 has stated as follows:

“दिवाळीचे वेळी नक्की आठवत नाही मी माझे घराचे मागे माझा मित्र [REDACTED] त्याचे घराचा स्लॅब पाहायला गेलो होता. (मी कोणाच्या सोबत तेथे गेले हे मला आता आठवत नाही.) तेथे आमचे गांवातील माझे ओळखीचा निलेश नेटके तेथे आला. त्याने माझा हात धरून मला ईश्वरच्या घरी घेवून गेला. तेथे ईश्वर, कुणाल भांगरे (वकील) होते. ते दोघेजण तेथे बसले होते. त्यावेळी “A” रस्त्याने त्याचे घरी चालला होता. तेव्हा कोणीतरी त्याला हाक मारून ईश्वरच्या घरात बोलवून घेतले. त्यानंतर कोणीतरी हातात काठी घेतली व त्यांनी मला व “A” ला आमची पॅन्ट काढायला लावली. कुणाल मला म्हणाला तुझा बुल्ला “A” च्या गांडीत टाक. नाहीतर तुला खुप मारीन म्हणुन मी कुणाल सांगेल तस केल. तेव्हा ईश्वर व निलेश बेडवर बसले होते. तेव्हा ईश्वर हातात मोबाईल घेवून काहीतरी करत होता. त्यानंतर त्यांनी मला पॅन्ट घालायला लावली. त्यानंतर कुणाल (वकील) ने त्याची पॅन्ट काढली व त्याची शुची जागा त्याच्या शीच्या जागेत घालायला लागला तेव्हा “A” जोरात ओरडत आणि रडत होता. थोड्यावेळाने ईश्वर, कुणाल व निलेश ने “A” ला व कपडे घालायला लावली. त्यांनी आम्हाला इथ काय झाल हे कोणाला सांगितलं तर तुम्हाला मारीन असे म्हणाले व आम्हाला तेथुन घरी जा म्हणाले. मी व “A” तेथुन निघून गेलो.”

(Emphasis added)

English translation of the said statement, reads as under:

*“I do not recollect the exact time, but it was the time of the Diwali festival. I had gone to my friend [REDACTED] house located on the rear side of my house, to see the slab of his house. (Now, I do not recollect as to with whom I had gone there). Nilesh Netke, my acquaintance from our village, came there. He held my hand and took me to Ishwar’s house. Ishwar and Kunal Bhangre (Vakil) were present there. They both had sat there. At that time, “A” was passing by the road to his house. At*

*that time, somebody called him and asked him to come to Ishwar's house. **Thereafter, somebody took a stick in his hand and asked 'A' and me to remove our pants.** Kunal said to me, "Insert your penis in 'A's' anus or else I will beat you a lot". Therefore, I did as to what Kunal asked me to do. At that time, Ishwar and Nilesh had sat on a bed. At that time, Ishwar had a mobile phone in his hand and he was doing something therein. Thereafter, they asked me to wear my pant. Thereafter, Kunal (Vakil) removed his pants and started inserting his penis in his (A's) anus. At that time, "A" was screaming and crying badly. **After sometime, Ishwar, Kunal and Nilesh asked "A" and (me) to wear our clothes and threatened us saying, "if you tell anybody about what has happened here, we will thrash you" and further asked us to go to our houses. Then, "A" and I went away from the said place."***

(Emphasis added)

**12.** Father of victim "A" in his statement has stated that accused No.1-Kunal Rajesh Bhangre is called as "Vakil Dada", accused No.2-Nilesh Suryakant Netake i.e. present Applicant is called as "Shendiwala Dada" and accused No.3-Ishwar Ashok Shinde is called as "Jadya Dada".

**13.** Ms. Mansukhani, learned Counsel appointed to represent the interest of the Respondent No.2 in her written note tendered in Court has stated about the role of the Applicant on the basis of material on record as under:

- *“That the allegations against the present Applicant are four-fold and establish his direct and active involvement in the commission of the offence. Firstly, the present Applicant forcibly brought the minor victim to the premises where the incident took place. Secondly, he coerced the victim into removing his clothes through threats and intimidation. Thirdly, he physically pushed the victim's head onto his own lap during the commission of the sexual offence by the co-accused so as to physically restrain his movement. Fourthly, he remained present and actively complicit throughout the incident and did nothing to prevent the assault. These acts, taken together, clearly establish the present Applicant's role in facilitating and participating in the commission of the offence with the other accused persons.*

- *That the statements as set out in the Chargesheet, as well as those made by the minor victim boys, have been corroborated by a video recording of the same, which has been duly submitted and brought on record before this Hon'ble Court in compliance with Section 65B of the Indian Evidence Act. In addition to the allegations mentioned in the witness statements, the video recording of the incident clearly shows that the present held down the head of the minor victim while he was being sexually assaulted by the co-accused.”*

(Emphasis added)

The said contention raised is on the basis of material on record.

14. Thus, the evidence on record *prima facie* shows that the present Applicant forcibly brought the minor victims to the place where the incident took place. He threatened the victims and forced them to remove their clothes, compelled the victims to do the act and physically restrained them. The material on record further *prima facie* shows that the Applicant has actively participated in the incident in question. The offence in question is very serious and heinous, where victims-boys aged 12 and 14 years have been sexually assaulted and subjected to gang rape. The medical report also supports the prosecution case. The incident has been videographed by the accused No.3. The said video recording also shows that the Applicant is involved in the crime. This is a serious case where three accused have sexually assaulted the minor boys. Thus, as set out herein above, no case is made out for grant of bail on merits.

15. As noted herein above, this Court by order dated 11<sup>th</sup> March 2024 allowed the withdrawal of the Bail Application No.3551 of 2023 with liberty to file fresh Bail Application after a period of one year, if there is no substantial progress in the trial.

16. As far as accused No.3-Ishwar Ashok Shinde is concerned, a learned Single Judge by order dated 5<sup>th</sup> March 2025 allowed the withdrawal of the Bail Application No.3307 of 2024 with liberty to file Bail Application after nine months, if the trial is not concluded by that time.

17. It is the further submission of Mr. Purankar, learned Counsel appearing for the Applicant that the Applicant is entitled to be released on bail in view of long incarceration. It is true that there is no progress in the trial and even the charge is also not framed. It is also true that the Applicant is incarcerated since 22<sup>nd</sup> December 2021. However, the material on record *prima facie* shows the involvement of the Applicant in the crime. The offence in question is very serious and heinous, where victims-boys aged 12 and 14 years have been sexually assaulted and subjected to gang rape. The offences involved inter alia are under Section 3 read with Section 4 of the POCSO Act, wherein minimum punishment is of 20 years if penetrative sexual assault is committed on the child below sixteen years of age and maximum punishment is life imprisonment. The offence is also inter alia under Sections 5(g) read with Section 6 of POCSO Act. The offence under Section 5(g) is an aggravated

penetrative sexual assault where the child is subjected to gang penetrative sexual assault and punishment for said offence is rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean imprisonment for the remainder of natural life of that person and shall also be liable to fine, or with death.

18. As far as long incarceration is concerned, Section 436A of Code of Criminal Procedure, 1973 is relevant, which reads as under :-

***“[436-A. Maximum period for which an undertrial prisoner can be detained.—Where a person has, during the period of investigation, inquiry or trial under this Code of an offence under any law (not being an offence for which the punishment of death has been specified as one of the punishments under that law) undergone detention for a period extending up to one-half of the maximum period of imprisonment specified for that offence under that law, he shall be released by the Court on his personal bond with or without sureties:***

***Provided that the Court may, after hearing the Public Prosecutor and for reasons to be recorded by it in writing, order the continued detention of such person for a period longer than one-half of the said period or release him on bail instead of the personal bond with or without sureties:***

***Provided further that no such person shall in any case be detained during the period of investigation,***

*inquiry or trial for more than the maximum period of imprisonment provided for the said offence under that law.*

*Explanation.—In computing the period of detention under this section for granting bail, the period of detention passed due to delay in proceeding caused by the accused shall be excluded.]”*

(Emphasis added)

19. Before understanding the scope of Section 436A of CrPC, it is necessary to set out the statement of objects and reasons behind enactment of Section 436-A CrPC which reads as under :

***“There had been instances, where undertrial prisoners were detained in jail for periods beyond the maximum period of imprisonment provided for the alleged offence. As remedial measure Section 436-A has been inserted to provide that where an undertrial prisoner other than the one accused of an offence for which death has been prescribed as one of the punishments, has been under detention for a period extending to one-half of the maximum period of imprisonment provided for the alleged offence, he should be released on his personal bond, with or without sureties. It has also been provided that in no case will an undertrial prisoner be detained beyond the maximum period of imprisonment for which he can be convicted for the alleged offence.””***

(Emphasis added)

20. The Supreme Court in the case of *Hussainara Khatoon (IV) vs. Hone Secy, State of Bihar*<sup>2</sup>, held that the right to speedy trial is a fundamental right of an undertrial prisoner and is a part of right to life guaranteed under Article 21 of the Constitution of India. In fact Section 436A of CrPC have been enacted to ensure protection of said fundamental right of the undertrial prisoner. Therefore, it has been provided that if the undertrial prisoner has completed one-half of the maximum period of imprisonment specified for such offence, then he shall be released on bail.

21. In the case of *Vijay Madanlal Chaudhary vs. Union of India*<sup>3</sup>, the Supreme Court in the context of the offence under the provisions of the *Prevention of Money Laundering Act, 2002* ("PMLA") has discussed the scope of Section 436-A of CrPC. The following observations in Paragraph No.324 are relevant.

**324.** *Section 436-A of the 1973 Code, is a wholesome beneficial provision, which is for effectuating the right of speedy trial guaranteed by Article 21 of the Constitution and which merely specifies the outer limits within which the trial is expected to be concluded, failing which, the accused ought not to be*

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**2** (1980) 1 SCC 98

**3** (2022) SCC OnLine SC 929

*detained further. Indeed, Section 436-A of the 1973 Code also contemplates that the relief under this provision cannot be granted mechanically. It is still within the discretion of the court, unlike the default bail under Section 167 of the 1973 Code. Under Section 436-A of the 1973 Code, however, the court is required to consider the relief on case-to-case basis. As the proviso therein itself recognises that, in a given case, the detention can be continued by the court even longer than one-half of the period, for which, reasons are to be recorded by it in writing and also by imposing such terms and conditions so as to ensure that after release, the accused makes himself/herself available for expeditious completion of the trial.*

(Emphasis added)

Thus, in view of the above position of law as the offence is very serious and heinous and there is likelihood of the Applicant bringing pressure on the witnesses and as minimum punishment which can be imposed on the Applicant, if convicted, is 20 years, no case is made out for grant of benefit under Section 436A of CrPC.

**22.** However, in the facts and circumstances, it is necessary that the trial is to be concluded expeditiously. At this stage, it is significant to note that when this Court wanted to issue directions

to the learned Trial Court to expedite the trial, Mr. Purankar, learned Counsel appearing for the Applicant has relied on the decision of the Supreme Court in the case of ***Rup Bahadur Magar @ Sanki @ Rabin vs. State of West Bengal***<sup>4</sup> and submitted that the Supreme Court has held that High Court should not issue such type of directions.

23. However, the said order in the case of ***Rup Bahadur Magar @ Sanki @ Rabin*** (supra) relies on the decision of the Supreme Court in the case of ***High Court Bar Association, Allahabad vs. State of U.P. & Ors.***<sup>5</sup>, wherein the Supreme Court has held that in the ordinary course the High Courts are passing the orders directing disposal of trials within a time bound manner. Apart from the fact that such directions are contrary to the law laid down by the Constitution Bench, such orders put undue pressure on the Trial Courts which are already flooded with a lot of work. Unless the factual situation is extra ordinary and exceptional, the High Courts cannot pass such order of time bound disposal of the case.

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**4** 2024 SCC OnLine SC 5575

**5** (2024) 6 SCC 267

24. However, this is a case where prima face, the Applicant and other co-accused are involved in very serious and heinous crime. The offence is *inter alia* under the POCSO Act. The victim boys of 12 years and 14 years are subjected to sexual assault and gang rape. Even in said case of ***High Court Bar Association, Allahabad*** (supra), the Supreme Court has stated that in exceptional circumstances, directions can be issued for time bound disposal of the case. This is a case where the Applicant is involved in very serious crime and is taking contention that this Court should not expedite the trial. In fact, earlier Bail Application has been allowed to be withdrawn by this Court by order dated 11<sup>th</sup> March 2024 passed in Bail Application No.3551 of 2023. Thus, it is very clear that even the Applicant's earlier Bail Application was allowed to be withdrawn as no case was made out to allow the Bail Application on merits. The only contention which can be raised by the Applicant is long incarceration.

25. In view of the facts and circumstances of this case, this Court is inclined to direct time bound disposal of the Sessions Case and at that time the Applicant is contending that no such direction be issued. Thus, the said contention clearly shows that the Applicant

is not interested in time bound disposal of the trial and interested in delaying the trial so that he can take advantage of the same and seek bail on the ground of long incarceration.

**26.** However, in the facts and circumstances, as the children of 12 years and 14 years are subjected to gang rape, the learned Trial Court is requested to make endeavour to conclude the trial within a period of one year from today.

**27.** The State of Maharashtra to ensure that the accused should either be produced physically or through Video Conferencing before the learned Trial Court on each and every date of the trial.

**28.** Learned Public Prosecutor who is conducting the case shall take expeditious steps for examination of the witnesses.

**29.** Accordingly, the Bail Application is dismissed.

[MADHAV J. JAMDAR, J.]