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Order on BA 677/25 in POCSO RA 875/25

MHCC020110122025



IN THE SPECIAL COURT FOR PROTECTION OF CHILDREN FROM
SEXUAL OFFENCES ACT, 2012, AT FORT GR. BOMBAY

ORDER ON BAIL APPLICATION NO.677 OF 2025

IN

POCSO REMAND APPLICATION NO.875 OF 2025

Bipasha Deepak Kumar]	
Age : 40 years,]	
Residing at D-34, Prabhadevi Telephone Exchange,]	<i>Applicant/</i>
Mayur Society, Dadar (W), Mumbai-400028.]...	<i>Accused</i>

Versus

The State of Maharashtra]	
(At the instance of Dadar Police Station)]...	<i>Respondent</i>

Appearances:-

Ld. Advocate Neeraj D. Yadav a/w Ld. Advocate Deepa Punjani for the Applicant/ Accused.

Ld SPP Sureeta Singh for the State/ Respondent present.

CORAM : HER HONOUR JUDGE
SMT. SABINA A. MALIK
The Designated Court under
Protection of Children from
Sexual Offences Act,2012.
C.R. NO. 33

DATED : 22nd JULY, 2025.

ORAL ORDER

1. The applicant / accused has preferred application under Section 483 of The Bharatiya Nagrik Suraksha Sanhita, 2023

(hereinafter referred as “BNSS Act”) seeking bail in Crime No. 314/2025 registered with Dadar Police Station under Sections 123, 351(2), 3(5) of The Bharatiya Nyaya Sanhita, 2023 (hereinafter referred as “BNS Act”) along with Sections 4, 6, 17 of The Protection of Children From Sexual Offences Act, 2012 (hereinafter referred as “POCSO Act”) and Section 77 of The Juvenile Justice Act, 2015 (hereinafter referred as “JJ Act”).

2. It is the case of prosecution in brief that, the informant is a 17 years old student studying in XII standard. In the year 2023, informant was in XI standard, applicant was a teacher in informant's school. She had organized a theater play. Informant was participating in the play and during this period, they became acquainted to each other. On 21.10.2023 at 11.00 p.m., applicant called informant on phone and discussed the play and tried to get close to him. After two days, applicant again called applicant and proposed to the informant. They talked on calls. On 26.12.2023 between 7.30 p.m to 8.00 p.m. applicant picked up the informant in her car. After parking the vehicle, she attempted to get close to him but informant denied the same. Subsequently, the applicant got him acquainted with her friend, the co-accused. She is alleged to have tried to convince the informant to engage in physical relationship with the applicant. Applicant administered Daskid 50 mg tablets to the informant for a week.
3. On 24.01.2024 at 8.30 p.m., applicant called informant at Mahim and parked her vehicle and consumed alcohol herself and forced informant to consume alcohol and had physical relations with informant against his will in the back seat of her car.

Subsequently, on 06.02.2024, March 2024, February 2025, applicant had established non-consensual physical relations with informant at various places. Applicant and co-accused have given threats to the informant. Informant told his parents about these incidents. On 25.06.2025, applicant sent her maid to the informant's house to obtain the mobile number of informant's mother and father. Hence, informant approached Dadar police station and registered complaint against accused.

4. On the basis of the complaint, offence was registered under Sections 123, 351(2), 3(5) of BNS Act along with Sections 4, 6, 17 of POCSO Act and Section 77 of JJ Act.
5. As per the applicant, she was arrested on 29/06/2025 and since 03/07/2025 she is in judicial custody. She submitted that FIR lodged against her is false, fabricated and motivated. The informant was in love with her and he had got her name tattoo on his body. The informant's email correspondence, whatsapp messages, handwritten notes and the gifts he gave her are a clear demonstration of his overwhelming desire and love and expressed his affection. The FIR has suppressed material evidence. The POCSO Act is not to criminalize consensual love where no exploitation or abuse is involved. Bail may be granted in POCSO cases where the facts will be consensual relationship. It is a motivated FIR where presumably the parents thought that this was perhaps best way to be rid of their son's love and desire for the applicant because once the informant would become a major he could not be stopped or prevented from being with the

applicant.

6. It is submitted that the applicant has resigned from the school in April 2024 to ward off the informant pursuit and attentions. She has messaged him that she would meet him only his mother's permission. In spite of it the informant kept communicating with her.
7. The applicant submits that the ground of arrest provided to her were in *marathi* which she does not comprehend. These grounds are not translated and she was simply made to sign the grounds which does not satisfy the mandate as contemplated under Article 22(1) of the constitution. It is also alleged that though the husband was intimated of her arrest but was not provided with a copy of grounds of arrest. One of the ground of arrest is stated to be that the applicant confessed in the interrogation. This cannot be a ground as such confession is inadmissible in Law. Though the applicant has resigned from the school in 2024 and she is a content writer, it is mentioned that she is the teacher of the school. The applicant has been a teacher in other school and there was no complaint against her and she has no criminal antecedents. The applicant is the mother of minor twins aged 11 years. Her daughter is suffering from asthmatic condition. She has filed her daughter's medical paper on record. Her children have not been attending. Their school their study is suffering and they are under emotional stress due to absence of their mother. She is ready to abide with terms and condition of bail imposed on her. Hence, applicant prayed for her release on bail.

8. Prosecution resisted the said application by filing say vide Exhibit-02. It is contended that the co-accused is not yet found, if the accused is granted bail, she will abscond and she will not be available for trial also tamper the evidence. The informant is in mental trauma due to alleged incidents. Hence, the application is sought to be rejected.
9. The victim has filed reply vide Ex-03 and resisted the application. He submitted that in case the applicant is released on bail, she will once again find ways to manipulate or intimidate, threaten and harm his life and also she will tamper the evidence. Hence, the application is sought to be rejected.
10. Perused the record. Heard Ld. Advocate for the accused and Ld. SPP. Perused the reply, copy of remand application. Admittedly, victim is aged 17 years. Sections 123, 351(2), 3(5) of BNS Act along with Sections 4, 6, 17 of POCSO Act and Section 77 of JJ Act provide maximum punishment to the extent of imprisonment of life which means imprisonment of the remainder of that persons natural life. The victim is above 16 years. From the record, there is evidence from both the side showing that there was a consensual relation subsequently. As the accused had resigned from the school, the relationship of a teacher and student no more existed and hence, the influence is diluted.
11. The trial will take time to commence, in the meanwhile nothing fruitful would be gained by keeping accused behind bars. The improper compliance of Sections 47 and 48 of BNSS Act. The accused undertakes to abide with terms and conditions of the

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bail. The potential risk to the victim if any could be catered to by imposing necessary terms and conditions. The apprehension of the prosecution can be taken care of by imposing stringent conditions on the applicant. Hence, applicant is entitled to be released on bail. With this I pass the following order :-

ORDER

1. The Bail Application No.677 of 2025 in POCSO Remand Application No.875 of 2025 is hereby allowed and disposed of accordingly.
2. The applicant/accused - **Bipasha Deepak Kumar**, in C.R. No. 314/2025 registered with Dadar Police Station, Mumbai, be released on bail on her executing P.B. of Rs.50,000/- (Rs. Fifty Thousand only) with one or more solvent surety in like amount.
3. Accused shall submit proof of her residence (permanent and temporary) / AADHAR card / Election card, if any. Accused shall also submit address and contact details of two known persons residing in Mumbai.
4. Accused shall not involve herself in any other offence.
5. Accused shall not tamper with the evidence of prosecution.
6. Accused should not meet the victim, contact him or threatened him in any manner.
7. Accused shall not directly or indirectly make any inducement, threat or promise to any witness or the victim or meet them.
8. Accused shall attend trial on each and every date and shall not leave the jurisdiction of Mumbai without permission of this Court.
9. The accused shall provide her address and telephone number to the Court, if there is any change, from time to time.

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10. Breach of any condition will amount to cancellation of bail forthwith.

(Dictated and pronounced in the open Court.)



Date: 22/07/2025
Mumbai

(Smt. Sabina A. Malik)
Special Judge under POCSO Act,
Gr. Mumbai.

Dictated on : 22/07/2025
Draft given on : 22/07/2025
Signed by HHJ on : 22/07/2025

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

22.07.2025 at 5.17 p.m.
UPLOADED DATE AND TIME

Ms. R. D. Tari
NAME OF STENOGRAPHER

Name of the Judge (with Court Room no.)	H.H.J. Sabina A. Malik C.R. No.33
Date of Pronouncement of Judgment/Order	22.07.2025
Judgment /Order signed by P.O. on	22.07.2025
Judgment/Order uploaded on	22.07.2025