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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO. 3066 OF 2026**

Sunil Sundar Gandhi

.. Applicant

Versus

State of Maharashtra and Anr.

.. Respondents

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- Mr.Niranjan Mundargi a/w. Ms. Keral Mehta i/b. Prasanna Bamgale, Advocates for Applicant.
- Mr. Sukanta Karmakar, APP for Respondent No.1 – State.
- Mr. Viral Mukte, Advocate for Respondent No.2

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CORAM : MILIND N. JADHAV, J.

DATE : SEPTEMBER 18, 2026.

P.C.:

1. Heard Mr. Mundargi, learned Advocate for Applicant, Mr. Mukte, learned Advocate for Respondent No. 2 and learned APP for Respondent No.1 – State.

2. Present Bail Application is filed under Section 483 of Bharatita Nagarik Suraksha Sanhita, 2023 by Applicant seeking enlargement on bail in connection with FIR being CR No.27 of 2026 registered with Mahad Police Station for the offences punishable under Sections 4, 8, 10 and 18 of the Protection of Children from Sexual Offences Act, 2012.

3. Briefly stated, Applicant is a senior citizen running private tuition classes under the name and style of Sunil Gandhi Classes from his residence at Tambad Bhuvan, Mahad. First Informant – Respondent

No.2 was a 10th standard student enrolled in private tuition classes conducted by Applicant.

4. It is prosecution's case that between September 2024 and October 2024, Applicant conducted extra classes during which he locked Respondent No.2 in the classroom, forceably kissed him and outraged him without his consent. FIR was filed on 04.04.2026 after one year and 7 months and Applicant was arrested on 05.04.2026.

5. Applicant filed Criminal Miscellaneous Application No.53 of 2026 before Additional Sessions Judge, Mangaon seeking grant of bail which came to be rejected by order dated 22.04.2026. Subsequently, Investigating Officer filed Chargesheet No.31 of 2026 before POCSO Special Court, Mangaon registered as Special Case No.30 of 2026. Thereafter, Applicant filed Bail Application in Special Case No.30 of 2026 which was rejected by order dated 11.06.2026. Hence present Bail Application.

6. Mr. Mundargi, learned Advocate for Applicant would submit that Applicant is falsely implicated in the present case. He would submit that Applicant's Instagram chat dated 01.04.2026 with his friend, appended to Chargesheet, is a cooked up document prepared only after Applicant's sister decided to take action against Applicant.

6.1. He would submit that case of prosecution is that present incident left Respondent No.2 in a traumatized state however Applicant voluntarily continued his private tuition at Applicant's classes

and cleared his 10th Standard Board Exams with 96.20%, hence such academic excellence does not reflect the prosecution's theory of Respondent No.2 undergoing severe trauma due to the incident. He would submit that there is an inordinate delay of nearly 18 months in filing FIR and reporting the incident.

6.2. He would submit that Respondent No.2's fall in academic performance happened due to rigorous JEE coaching classes and his subsequent psychiatric evaluation took place between late 2025 and early 2026 which is admittedly a full year after leaving Applicant's private tuition. He would submit that Medico Legal Examination Report dated 05.04.2026 records clear finding that there was no external injury noted and FSL Report dated 07.04.2026 states that no potential exhibits are found at the crime scene hence there is no trace of any evidence that links Applicant to the alleged incident.

6.3. He would submit that Additional Sessions Judge failed to consider that Respondent No.2 resides in Panvel with his sister due to his enrollment in coaching classes for JEE examination and he does not reside in Mahad anymore, hence Applicant cannot influence Respondent No.2 or any witness. He would urge this Court to enlarge Applicant on bail in light of his aforementioned submissions.

7. Mr. Karmakar, learned APP would submit that between September 2024 and October 2024, Applicant sexually assaulted Respondent No.2 as a result of which Respondent No.2 struggled with

concentration and underwent a serious dip in his academic performance. He would submit that Investigation Officer appended Instagram chat between Respondent No.2 and one of his friend wherein Respondent No.2 confessed the nature of Applicant's conduct to his friend. He would submit that the nature of the deeds and actions are serious and greivous in nature and therefore Applicant ought to be denied grant of bail. He would submit that Applicant is a well known and influential person in Mahad and his release from jail would prejudice the trial and influence Respondent No.2 and all witnesses.

8. Mr. Mukte, learned Advocate for Respondent No.2 – First Informant would adopt the submissions of the learned APP and would further refer to and rely upon a decision of this Court in the case of *Mayur Raju Wankhede Vs. The State of Maharashtra and Anr.*¹ to contend that POCSO Act represents the legislative intent to provide stringent protection to children from sexual offences and that Courts have a solemn duty to ensure this legislative intent is not defeated by following liberal approach in granting bail.

9. I have heard the learned Advocates appearing for the parties and with their able assistance, perused the record of the case. Submissions made by the learned Advocates at the bar have received due consideration of the Court.

¹ Bail Application No.879 of 2025 decided on 02nd July 2025

10. At the outset, one thing is certain and clear that on the version of Respondent No.2 – First Informant’s own case, there is an unreasonable delay of more than one and half year i.e. 18 months between the alleged act and registration of the First Information Report. One of the submission made by the learned APP and the Advocate for Respondent No.2, is that Instagram chat between Applicant and his friend are appended and this chat shows the nature of the crime allegedly committed by Applicant. However this singular chat when seen, *prima facie* does not explicitly describe the commission of the offence with which Applicant is charged neither does this chat state the time, place or nature of the offence. Hence in my opinion this cannot be the sole material for considering denying bail to Applicant. It is further seen that prosecution have failed to record the statement of students except two students, who were part of the same batch of students with Respondent No. 2 – Victim or of the previous or later batches of students. It is seen that both these students were batchmates of the victim and their statements are appended on page Nos.230 and 231 of the Application and have not revealed anything incongruous or objectionable *qua* the Applicant before me.

11. It is *prima facie*, seen that FIR was recorded after an inordinate delay of 18 months and delay in lodging FIR in such a serious sexual offence case is often of little consequence, but however this principle is not absolute and where there is a discernible possibility

of false implication, such a delay must be scrutinised very closely. In the present case, Respondent No.2 – Victim filed FIR after over 18 months from the date of incident. This inordinate delay cannot be viewed lightly and Respondent No.2's explanation that this incident was the cause of fall in his academic performance cannot be countenanced by Court in the absence of any incriminating material.

12. Medical evidence supports Applicant's defence of innocence at this *prima facie* stage. It is seen that Applicant was arrested on 05.04.2026, and since then, he has been in judicial custody. Investigation in the case is completed, and chargesheet is filed before the Special Court. Therefore, further judicial incarceration does not serve any purpose. Applicant has no prior antecedents, his credentials as a private tuition teacher and achievements are not only good but even well documented in various regional newspapers.

13. In view of the above observations arrived at after perusing the FIR, statement of the Respondent No.2 and the material appended in the Chargesheet, *prima facie* there is no material placed on record to persuade me to continue the incarceration of Applicant in prison.

14. Having regard to all the above aspects, I am inclined to grant bail to the petitioner on the following conditions:

- (i) Applicant – Sunil Sundar Gandhi is directed to be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;

(ii) Applicant shall report to the Investigating Officer of the concerned Police Station once every month on the third Sunday between 10:00 a.m. to 12:00 p.m. for the first six months and thereafter as and when called;

(iii) Applicant shall co-operate with the conduct of trial and attend the Trial Court on all dates unless specifically exempted and will not take any unnecessary adjournments, if he does so, it will entitle the prosecution to apply for cancellation of this order;

(iv) Applicant shall not leave the country without prior permission of the Trial Court;

(v) Applicant shall not influence any of the witnesses or tamper with the evidence in any manner;

(vi) Applicant shall not make any attempts to contact the First Informant / victim or any witnesses by any physical or electronic means and attempt to influence them or tamper with evidence in any manner;

(vii) Applicant shall keep the Investigating Officer informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;

(viii) Applicant shall not attempt to contact the victim either physically or by any electronic devices / means until the trial is completed and the verdict is delivered by the Trial Court; and

(ix) Any infraction of the above conditions shall entail the prosecution to seek cancellation of this order.

15. It is clarified that the observations made in this order are limited for the purpose of granting Bail only and I have not made any observations on merits of the case and the trial shall be adjudicated on its own merits in accordance with law.

16. This Court appreciates the assistance rendered by Mr. Mukte, learned Advocate appointed through the Legal Aid to espouse the cause of Respondent No. 2. His fees are to be paid by the High Court Legal Aid Services Authority as per rules on production of a server copy of this order and other compliances in accordance with the decision of this Court in the case of *Sanjyot Nitin Telharkar v. The State of Maharashtra & Anr.*² and the Schedule under Regulation 18(1) of the Maharashtra State Legal Services Authority Rules, 1998.

17. Bail Application is allowed and disposed.

[MILIND N. JADHAV, J.]

Ajay

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