

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.703 of 2018
IN
CRIMINAL APPEAL NO.504 of 2018**

Nagendra Satyanarayan Mehta	.. Applicant
Versus	
The State of Maharashtra	.. Respondents

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Mr.Aniket Nikam for the applicant.
Mr.K.V. Saste, APP for the State.
Mr.Chandrakant Kale Police Naik, Ranjangaon police station
present.

CORAM: SMT. BHARATI H.DANGRE, J.

DATED : 10th SEPTEMBER, 2018

P.C:-

1 Criminal Application No.703 of 2018 is taken out in a Criminal Appeal No.504 of 2018 which came to be admitted by this Court on 6th July 2018. The Appeal has been filed challenging an order of conviction passed by the Addl. Sessions Judge, Pune on 5th April 2018, by which the appellant is convicted for offence punishable under Section 506, 504 of the Indian Penal Code and also under Sections 4, 6 and 8 of the

Protection of Children from Sexual Offences Act, 2012. On conviction, the appellant has been sentenced to suffer Rigorous Imprisonment for one year pursuant to a conviction u/s.506 and he is also sentenced to suffer Rigorous Imprisonment for one year pursuant to conviction under section 506 of the IPC. As far as offences under the POCSO Act are concerned, the appellant is sentenced to suffer Rigorous Imprisonment for 7 years and to pay fine of Rs.5,000/-. For a conviction under Section 6 of the POCSO Act, he is sentenced to suffer RI for 10 years and to pay a fine of Rs.5,000/-. For a conviction under Section 8 of the POCSO Act, he is sentenced to suffer RI for three years and to pay a fine of Rs.5,000/-. All the sentences are directed to run concurrently.

2 By the present application, the applicant seeks a relief of being released on bail in view of the Appeal being admitted. In the application, it is stated by the applicant that the prosecution case is doubtful and he had specifically alleged in the Appeal that the case of the prosecution and the complaint lodged by the daughter is a counter blast to the

complaint which he had instituted when she left the house with a neighbor Shri Anil Kumar Singh on 30th November 2014. The specific case set out in the Appeal is that though the allegations which are made in the complaint of the victim are referred to the incidents of sexual harassment from the year 2012 upto November 2014, according to the appellant, the complaint has been lodged only on 7th May 2015 and that is also after almost a period of six months after he had lodged a complaint on 6th December 2014. The learned counsel for the applicant has also tendered on record the copy of the judgment of the Court pursuant to a complaint registered on 6th December 2014 and would submit that in the said proceedings, the victim did not support the case of the prosecution, resultantly, Shri Anil Kumar Singh came to be acquitted of the charges levelled against him.

In the application, the applicant therefore, submits that the prosecution has failed to establish its case by adducing reliable and cogent evidence. However, in any contingency, on the basis of his averments, the Appeal is admitted by this Court. He, however, expresses an apprehension that the Appeal would

take some time for being heard and since he has brought to the notice of the Court while admitting the appeal the glaring contradictions and omissions as well as the the case of prosecution, he is entitled to be released on bail. He has made the submission that he was released on bail by the Addl. Sessions Judge, Pune by an order dated 31st July 2015 and he has not misused the liberty granted to him and has complied with the terms and conditions subject to which he was released on bail.

3 In the backdrop of the contentions raised in the application, the learned APP was given time to verify the statement made by the learned counsel for the applicant about he not misusing the liberty at any point of time when he was released on bail. Today, the learned APP Mr.Saste has tendered on record the objection of the prosecution to release the present applicant on bail and the foremost ground on which his release is opposed is that he is original resident of Bihar and there is every possibility that if he is released on bail, he may not make himself available during the course of hearing of the Appeal

and there is also every likelihood that he would tamper with the witnesses or coerce them in any manner. Considering the gravity of the offence, the application to release the applicant is opposed by Police Inspector, Ranzangaon Police Station.

4 When the learned counsel for the applicant is confronted with the said objection raised by the learned Prosecutor, he would invite the attention of this Court to the fact that the victim herself in her deposition before the Court had categorically stated that she had prosecuted her education in the school at Ranzangaon upto 7th standard and she had made a statement that they were brought to Ranzangaon since 2010. She had also made a statement that her father i.e. the present applicant had purchased a flat at Phalkemala, Taluka Shirur, District Pune where all the family members shifted and resided together. Learned counsel for the applicant would submit that though the family of the applicant hailed from Bihar, since more than 10 – 12 years, he is residing in Pune. From the evidence that has been brought by the prosecution itself on record, the applicant is found to be residing at

Phalkemala, Taluka Shirur, District Pune. In such circumstances, learned counsel would contradict the submissions advanced by the learned APP opposing the grant of relief of bail and releasing him on bail. He would submit that since he is a resident of Pune and he undertakes to this Court that he would not flee from the course of justice and would cooperate whenever the proceedings are taken up, he would submit that this Court is at liberty to impose stringent conditions upon him and he is ready to be subjected to all those conditions which this Court, would impose.

5 Considering the said application and the fact that the appeal is admitted and is likely to consume a reasonable time for being finally heard, I am of the opinion that the following order would serve the ends of justice.

ORDER

(a) The applicant, during the pendency of the appeal, is released on bail on executing a personal bond to the tune of Rs.25,000/- and on furnishing one or more solvent surety of the like amount. It is made clear that the two sureties to be submitted would be from the local residents of Pune.

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(b) The applicant should submit his permanent address to the concerned police station forthwith with an affidavit duly supporting the said address.

(c) The applicant would report to the Ranzangaon Police Station every Monday between 9 to 11. The concerned officer in charge of the police station would record his presence and obtain his signature. He should intimate to the said officer any change in his address, if at all such contingency arises.

(d) He shall not in any way, influence the witnesses or the victim in any manner and cause hindrance in proceeding of the appeal.

With the aforesaid order, the present application is disposed of.

SMT. BHARATI H. DANGRE, J.

Manali
Prasanna
Tilak

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signed by
Manali
Prasanna Tilak
Date:
2018.09.18
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