

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

**INTERIM APPLICATION NO. 867 OF 2020
IN
CRIMINAL APPEAL NO. 1241 OF 2019**

Suresh Ramchandra Pawar.

..Applicant.

Versus

The State of Maharashtra

...Respondent

Mr. A. H. Delhiwala for the Applicant - Appellant.

Mr. H. J. Dedhia, APP for the Respondent – State.

**CORAM : PRASANNA B. VARALE &
S.M. MODAK, JJ.**

DATE : JANUARY 15, 2021.

PER COURT :

1. By the present application, the Applicant prays for his enlargement on bail pending and disposal of Appeal No.1241 of 2019. Applicant Suresh Pawar was charged for the offence punishable under sections 376(2)(1) and 506 of the Indian Penal Code, 1860 and sections 6, 11(2) and 12 of the Protection of Children from Sexual Offences Act, 2012.

2. On appreciation of evidence and on conclusion of trial, the learned Additional Sessions Judge, Sangli has recorded the judgment and order of conviction. Being aggrieved by the judgment

and order of the learned Additional Sessions Judge, Sangli, appeal is preferred by the Applicant – appellant and the same is admitted vide order dated 11th October 2019.

3. Learned counsel for the Applicant vehemently submitted that the medical evidence brought on record by the prosecution is not supporting the case of prosecution. It was also the submission of learned counsel that the Applicant is falsely implicated in the case. It is also submitted by the learned counsel for the Applicant that the Applicant who was operating a school van, while on the way from the school so as to drop the children, was required to park his vehicle as the vehicle broke down due to puncture of tyre; the mob gathered nearby the vehicle under an erroneous impression that the Applicant had played mischief and falsely implicated the applicant in the offence. Learned counsel for the Applicant submitted that the application be allowed.

4. Learned APP vehemently opposed the application by inviting our attention to the observations of learned trial judge in the judgment and order of conviction and submitted that all the evidence brought on record before the Court was properly appreciated by the learned trial Court and no error is committed

while arriving at the ultimate conclusion.

5. On going through the judgment and order of trial Court, we could find that there were as many as 17 witnesses examined by the prosecution. Out of these 17 witnesses, there are as many as 3 medical officers who were examined before the trial Court. Then there is also evidence of the mother of victim who immediately rushed to the hospital on receiving a phone call from her husband, i.e., father of victim, and there is also immediate disclosure of ill act of Applicant to the mother.

6. The perusal of judgment and order of the trial Court further shows that the witnesses on material aspects have stood firm before the Court. Perusal of the judgment and order further shows that though a defence of false implication was submitted before the Court, there was no material to support the defence theory of false implication. There is also no reason coming forth so as to disbelieve the version of victim.

7. Then, there are some independent witnesses who rushed to the spot. None of them was having any relations with the parents of victim. Learned trial Judge in his judgment and order has also

recorded the observations to state that how the theory of breakdown of vehicle due to puncture of tyre is unacceptable and unsustainable. It may not be out of place to state here that at this stage of consideration of application seeking enlargement on bail, it is not expected of an indepth scrutiny and appreciation of evidence.

8. On perusal of judgment and order and considering the material that is reflected in the judgment and order brought before the Court below, we are of the opinion that this is not a case to enlarge the Applicant on bail. It may not be out of place to state that the Applicant-accused is not only charged for his act of misdeeds wherein the child victim was subjected to sexual harassment but was also involved in other act of recording the obscene act and displaying the same on mobile phones. CDs to that effect were also part of the evidence brought before the learned trial Court.

9. Considering all these material referred to above, we are of the opinion that the application is thoroughly meritless and deserves to be rejected. Accordingly, the application is rejected.

(S.M. MODAK, J.)

(PRASANNA B. VARALE, J.)