

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 425 OF 2021
IN
CRIMINAL APPEAL NO. 982 OF 2019**

Avadhut Ramchandra Bhagna	...Applicant
Versus	
State of Maharashtra	...Respondent

Mr. Sachin R. Pawar for the Applicant.

Mr. P.H.Gaikwad, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 5TH MARCH, 2021

P.C. :

1. Heard learned Counsel for the parties.

2. This is the second application preferred by the applicant seeking suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his aforesaid appeal.

3. Learned Counsel for the applicant submits that the applicant is

in custody since 15/11/2017 i.e. for more than 3 years and 5 months. He submits that the incident in question is alleged to have taken place in 2014, whereas, the FIR was lodged in 2017. Learned Counsel pointed out the material omissions in the evidence of the prosecutrix i.e. PW-1 in particular paragraph Nos.14 and 15. He submits that the Trial Court has relied on the sole testimony of PW-1 without any corroboration.

4. Learned APP opposes the application.

5. Perused the papers. The first Bail Application preferred by the applicant seeking suspension of his sentence and enlargement on bail, pending the appeal, was withdrawn by the learned Counsel for the applicant with liberty to renew the prayer for bail after six months. The said application was accordingly disposed of as withdrawn with liberty as prayed by this Court vide Order dated 14/07/2020.

6. Perused the evidence of PW-1 (victim girl). It appears that the incident is of 2014, whereas, the FIR was lodged in 2017, alleging offences punishable under Sections 376(2)(i), 506 of the Indian Penal Code; and Section 19 r/w Section 21 and Section 5(m) r/w Section 6 of the Protection of Children from Sexual Offences Act, 2012.

7. A perusal of the evidence of the prosecutrix, in particular, paragraph Nos.14 and 15 show that there are material omissions with respect to the incident, in the cross-examination. Appeal has been admitted vide order dated 09/09/2019. The applicant is in custody since 15/11/2017.

8. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail on the following terms and conditions:

: ORDER :

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall report to the trial Court, once in two months on the day/date specified by the trial Court, till his Appeal is finally disposed of;
- iii) The applicant shall also report to the concerned Police Station once in a month on the first Saturday of every month from 10.00 a.m. to 12.00 noon until further orders.
- (iv) The applicant shall not contact the prosecutrix or any other witnesses concerned with the said case.
- (v) The applicant shall not enter the jurisdiction of Poynad Police

Station, Alibuag where PW-1 resides, except for attending the Police Station, as directed vide clause (iii) above;

(vi) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

vii) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

9. The Application is allowed in the aforesaid terms and is accordingly disposed of.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.