

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

**INTERIM APPLICATION NO. 1566 OF 2022
IN
CRIMINAL APPEAL NO. 527 OF 2022**

Rohit Rajendra Sawant

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. A. A. Kadam i/b. R. D. Suryawanshi for Applicant.

Smt. M. R. Tidke, APP for State/Respondent No.1.

Ms. Ameeta Kuttikrishnan (Appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th NOVEMBER 2022

PC :

1. This is an application for bail pending final disposal of Criminal Appeal No.527 of 2022 filed by the Appellant. The applicant was the original accused No.1 in Special Case No.1 of 2017 before learned Judge, Special Court, Khed, Ratnagiri. The Applicant was convicted and sentenced as follows:

- a) He was convicted for commission of offence punishable U/s.376D of I.P.C. and was sentenced to suffer R.I. for 20 years and to pay a fine of

Rs.1000/- and in default of payment of fine to suffer R.I. for two weeks.

b) He was convicted for commission of offence punishable U/s.354A of I.P.C. and was sentenced to suffer R.I. for one year.

c) He was convicted for commission of offence punishable U/s.450 of the I.P.C. and was sentenced to suffer S.I. for 3 years and to pay a fine of Rs.500/- and in default of payment of fine to suffer S.I. for one week.

d) He was convicted for commission of offence punishable U/s.352 of I.P.C. and was sentenced to suffer S.I. for one month.

e) He was convicted for commission of offence punishable U/s.506(I) of the I.P.C. and was sentenced to suffer S.I. for six months.

f) He was convicted for commission of offence

punishable U/s.6 of the Protection of Children from Sexual Offences Act and was sentenced to suffer R.I. for 10 years and to pay a fine of Rs.1000/- and in default of payment of fine to suffer R.I. for 2 weeks.

g) He was convicted for commission of offence punishable U/s.8 of the Protection of Children from Sexual Offences Act and was sentenced to suffer R.I. for 3 years and to pay a fine of Rs.500/- and in default of payment of fine to suffer S.I. for 2 weeks.

2. Heard Shri. Kadam, learned counsel for the Applicant, Smt. Tidke, learned APP for the State and Ms. Ameeta Kuttikrishnan, learned counsel for the Respondent No.2.

3. Learned counsel for the applicant submitted that the trial of other accused who were minors at that time, resulted in their acquittal. He submitted that the victim has not given the exact date of the incident, but it appears that there is inordinate delay of 7

months in lodging the F.I.R. He submitted that the incident had taken place in the house which was situated in a crowded locality. Her silence shows that the incident is not true. He submitted that the evidence of the victim is not believable and it is not supported by the medical evidence.

4. Learned APP, as well as, learned counsel for the Respondent No.2 submitted that, at this stage, it would not be proper to hold that that victim is not telling the truth. Her evidence is supported by the medical evidence. It is to be noted that the medical examination was conducted after quite some time and, therefore, it would not reflect fresh injuries; but the injury to hymen was reflected.

5. I have considered these submissions. The victim's deposition clearly describes the role played by the applicant. The allegations are that, she was over-powered by all the accused and it was a serious offence committed on her. She was threatened. She was told that the video recording of that act would be made viral. She has given explanation for not making grievance earlier

than when her F.I.R. was lodged. All these issues will have to be decided during final hearing stage of the Appeal. At this stage, it is not possible to dissect her evidence minutely to observe that the applicant has not committed the offence. The offence is serious. It is not the case that, there is no evidence against the applicant. Therefore, at this stage, it is not possible to hold that the victim's evidence is not true. Considering the quantum of sentence and nature of the evidence, no case for grant of bail is made out.

6. The Application is rejected.

7. Considering young age of the applicant, Criminal Appeal No.527 of 2022 is expedited.

(SARANG V. KOTWAL, J.)