

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

**INTERIM APPLICATION NO.268 OF 2022
IN
CRIMINAL APPEAL NO.664 OF 2022**

Mangal Tapon Ray Applicant

versus

State of Maharashtra Respondent

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- Mr. Vishal V. Kanade (Appointed Advocate) for Applicant.
- Mr. Yogesh Y. Dabke, APP for the State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 15th SEPTEMBER, 2022**

P.C. :

1. This is an application by the Applicant through jail for his release on bail during pendency and final disposal of the Criminal Appeal No.664 of 2022.

2. The Applicant was convicted by the Special Judge under POCSO Act, Special Court for POSCO, Greater Bombay, in POCSO Special Case No.425 of 2015, for commission of offence

punishable u/s 370A(2) and 376 of the Indian Penal Code. The maximum punishment was 12 years besides imposition of fine.

3. Heard Mr. Vishal V. Kanade, learned counsel for the Applicant and Mr. Yogesh Y. Dabke, learned APP for the State.
4. Learned counsel for the Applicant who is appointed for the Applicant submitted that out of maximum sentence of 12 years, he has already completed 7 years of actual imprisonment. There are major omissions and contradictions in the victim's evidence. Co-accused who is wife of the accused, is granted bail pending her separate Appeal and therefore bail should be granted to the Applicant pending his Appeal i.e. Criminal Appeal No.664 of 2022, which is already admitted.
5. Learned APP opposed this application. He relied on the evidence of the victim. He submitted that the offence is very serious.

6. I have considered these submissions and in particular I have also perused the evidence of the victim. She has described that she came to Mumbai on the promise of getting job at a reasonable salary. The Applicant's wife had induced her to come to Mumbai. The Applicant's wife brought the victim to her house. On 25/05/2015 in lieu of the favour of maintaining her in Mumbai, she was forced to have sexual intercourse with the Applicant. He committed rape on the victim. After that, she was forced into prostitution. Ultimately she lodged her FIR on 22/06/2015. As far as the incident dated 25/05/2015 is concerned, there is no omission in her F.I.R. regarding the Applicant's role. The medical evidence brought on record through evidence of PW.4 mentions PW.4's definite opinion that there was sexual and physical violence on the victim. Thus all these circumstances are against the Applicant. The offence is quite serious. Therefore the Applicant does not deserve to be released on bail during pendency of the Appeal. The application is rejected.

7. However, since the Applicant has completed major part of his sentence, the Appeal needs to be decided earlier. Hence place this Appeal along with the companion Appeal i.e. Criminal Appeal No.183 of 2021 of the co-accused on weekly final hearing board commencing from 21/11/2022.

(SARANG V. KOTWAL, J.)