

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

**INTERIM APPLICATION NO.1031 OF 2022
IN
CRIMINAL APPEAL NO.313 OF 2022**

**WITH
INTERIM APPLICATION NO.1032 OF 2022
IN
CRIMINAL APPEAL NO.313 OF 2022**

Deepak Narayan Rane

.... Applicant

versus

State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Devendra Patil, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent No.1.
- Ms. Shivani Kunder, Appointed Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 03rd AUGUST, 2022**

P.C. :

1. Leave to amend is granted to remove the name of the Respondent No.2 from the Appeal memo and memo of both these applications. Amendment to be carried out forthwith.

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2. Interim Application No.1032 of 2022 is for suspension of sentence pending hearing and final disposal of the Appeal. There is also another prayer for quashing and setting aside the impugned judgment and order of conviction and sentence. Obviously this other prayer cannot be granted in Interim Application. That would be a subject matter of the Criminal Appeal.
3. Interim Application No.1031 of 2022 is for release of Applicant on bail during pendency of the Criminal Appeal No.313 of 2022. Since the effect of both these application is similar, these applications are decided by this common order. The Appeal is already admitted.
4. The prosecution case is that on 07/12/2015 the Applicant committed rape on the victim, who was about 9 years of age. At the conclusion of the trial, the Applicant was convicted as under;

(1) He was convicted for the commission of offence punishable u/s 376(2)(i) of the Indian Penal Code and was sentenced to suffer rigorous imprisonment 20 years and to pay a fine of Rs.10,000/-, in default of payment of fine to suffer rigorous imprisonment for 2 months.

(2) He was convicted for offence punishable u/s 506(II) of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for 2 years and to pay a fine of Rs.5,000/-, in default of payment to suffer rigorous imprisonment for one month.

(3) He was acquitted from the charges of commission of offence punishable u/s 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

All the sentences were directed to run concurrently.

5. The Applicant was also charged for commission of offence u/s 4 of the POCSO Act. But since, the major

punishment was u/s 376(2)(i) of the IPC, no separate conviction or sentence was recorded under the POCSO Act.

6. Heard Mr. Devendra Patil, learned counsel for the Applicant, Ms. Shivani Kunder, Advocate for Respondent No.2 and Smt. M. R. Tidke, learned APP for the State.
7. Learned counsel for the Applicant submitted that there was delay in lodging the FIR. The date of incident was 25/11/2015. The FIR was lodged on 07/12/2015. He submitted that this incident was told to the landlord of the Applicant. But the landlord is not examined. Neither any witness from the locality was examined. The Applicant is falsely implicated.
8. Learned APP as well as learned counsel for the Respondent No.2 relied on the evidence of the victim, her sister and uncle. It is submitted that their evidence sufficiently establishes the prosecution case.

9. P.W.2 is the victim herself. She has deposed that her date of birth is 17/10/2006. She has stated that she was studying in 4th standard at the relevant time. On 25/11/2015 her uncle had gone to railway station to drop her father and grandmother. She was in the house with her younger sister. They were watching T.V. It is was night time. At about 11.00 p.m. the Applicant who was their neighbour came in their house. He bolted the door from inside and committed rape on her. She and her sister shouted. Then he went out of the house. Before going he threatened them that he would kill his family members if they disclosed the incident to their uncle. But the victim and her sister disclosed this incident to P.W.1 i.e. their uncle. After that, the FIR was lodged.

10. P.W.3 - the younger sister of the victim has fully supported and corroborated the victim's version. P.W.1 - the uncle has explained why the FIR was not lodged. He has deposed that when he came to know about the incident on 27/11/2015, he went to the landlord of the Applicant. The

landlord pressurized him not to lodge the report. They were frightened. After only gathering support from the relatives, the FIR was lodged.

11. Thus, at this stage, there is sufficient material against the Applicant. The offence is quite serious and sentence imposed is 20 years. In this view of the matter, no case for grant of bail pending Appeal is made out. The application is rejected.

12. Both the Interim Applications are disposed of.

13. The Appeal is expedited because the Applicant is 63 years of age and his wife is suffering from cancer, as submitted by learned counsel for the Applicant.

(SARANG V. KOTWAL, J.)