

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

**INTERIM APPLICATION NO.1232 OF 2022
IN
CRIMINAL APPEAL NO.391 OF 2022**

Mohammad Yunus Mohd. Latif Khan Alias
Mohamad Yunus Latif Khan Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Hardik Vyas, Advocate for Applicant.
- Smt. J. S. Lohokare, APP for the State/Respondent No.1.
- Smt. Manisha Devkar (Appointed Advocate) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 12th SEPTEMBER, 2022**

P.C. :

1. This application is for bail pending the Criminal Appeal No.391 of 2022 preferred by the Applicant. The Applicant is convicted for commission of offence punishable u/s 376 of the Indian Penal Code and u/s 6 of the Protection of Children from Sexual Offences Act, 2012. He was sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/- and

in default of payment to suffer rigorous imprisonment for 3 years. Out of the fine amount Rs.8,000/- were directed to be given to the victim.

2. Heard Mr. Hardik Vyas, learned counsel for the Applicant, Smt. Manisha Devkar, learned counsel for Respondent No.2 and Smt. J. S. Lohokare, learned APP for the State.
3. Learned counsel for the Applicant submitted that there were witnesses, who were not examined by the prosecution though the victim had referred to them in her deposition and police statement. He submitted that the Applicant was falsely implicated because of the quarrel between the Applicant and her stepmother. It was pertaining to money dispute. The Applicant is falsely implicated. There are major omissions in her police statement which are brought on record in her deposition. Her date of birth is not proved because the employee of the school did not have first hand knowledge about the birth date.

4. Learned APP as well as learned counsel for Respondent No.2 opposed this application. They relied on the deposition of the victim who is examined as P.W.1 as well as the medical examination. They submitted that the offence is serious.
5. I have considered these submissions and I have also perused the deposition annexed to this application. The date of birth of the victim was 23/02/2004. The incident had taken place on 15/01/2015. In her deposition she has described the incident in detail. There was penetration with finger, which falls within the meaning of penetrative sexual assault.
6. Whether her police statement omits important aspects and hence whether there are improvements in her deposition, can be considered only at the final hearing stage. At this stage, it can be seen that the medical evidence also supports the prosecution case. Considering the nature of the evidence given by the victim herself, supported by the medical evidence, there is very strong case against the Applicant. The date of birth of the

victim was 23/02/2004. She was hardly 11 years of age at the time of incident.

7. Considering these aspects, no case for grant of bail is made out. The application for bail is rejected.

(SARANG V. KOTWAL, J.)