

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

**INTERIM APPLICATION NO.1344 OF 2022
IN
CRIMINAL APPEAL NO.495 OF 2022**

Sudhir Chatrabhuj Gaikwad ...Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. Vikrant B. Shinsde, Advocate for the Applicant.
Smt. M.R. Tidke, APP for the Respondent No.1-State.
Mr. Akash Singh, Advocate i/b. Pranali P. Kakade (advocate
appointed) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 08th DECEMBER, 2022**

P.C. :

1. This is an application for bail pending appeal. The applicant was convicted for commission of the offence punishable under Section 376(2)(i), 354 read with 34 of IPC and under Sections, 4, 6, 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The major sentence imposed on him was RI for twenty years besides imposition of fine. He was original accused No.2. Besides him, the accused No.1 was also similarly convicted

and sentenced. This order was passed by the Additional Sessions Judge, Pune vide his judgment and order dated 2.12.2020 in Special POCSO S.C. No.33/2016.

2. Heard Shri Vikrant Shinsde, learned counsel for the applicant, Smt. M.R. Tidke, learned APP for the respondent No.1-State and Shri Akash Singh, learned counsel for the respondent No.2.

3. Learned counsel for the applicant submitted that the applicant is in custody since 2015. On merits, he has a good case. He submitted that PW-4, who was a neighbour of the victim, has accepted in the cross-examination that she had told the police in her police statement that not only both the accused but even the victim's father used to harass her. He, therefore, submitted that the prosecution case is not true.

4. Learned APP as well as learned counsel for the respondent No.2 opposed this application. Both of them relied on the evidence of the victim PW-2 and the medical evidence.

5. I have considered these submissions. The victim's evidence is clear enough. She has narrated that both the accused, including the present applicant, were her father's friends. They used to visit her house and under the influence of liquor they used to commit sexual intercourse on her. She was eleven years of age at the time of incident. Her deposition is supported by PW-3 Dr. Pawar and he has deposed that there was injury to her hymen, edges were old healed and there was mild perihymenal inflammation. He has given his opinion that there was evidence of multiple acts of penetrative sexual vaginal intercourse. At this stage, there is sufficient material against the applicant to deny him bail pending his appeal.

6. In view of this discussion, the application is rejected.

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(SARANG V. KOTWAL, J.)

Deshmane (PS)