

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

**INTERIM APPLICATION NO. 2075 OF 2022
IN
CRIMINAL APPEAL NO. 659 OF 2022**

Sarfraj @ Iqbal Faridulla Khan ..Appellant
Versus
State of Maharashtra & Anr. ..Respondents

Mr. Ganesh Bhujbal for Appellant in Appeal No.659 of 2022.
Mr. Y. Y. Dabke, APP for State/Respondent No.1.
Mr. Veerdhaval P. Kakade, Appointed Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 4th AUGUST 2022**

PC :

1. This is an application for bail. The applicant was convicted for commission of offence punishable U/s.377 of I.P.C. and under section 6 and 10 of the Protection of Children from Sexual Offences Act. He was sentenced to suffer R.I. for 10 years and to pay a fine of Rs.25,000/- and in default to suffer R.I. for six months. Out of the fine amount, Rs.20,000/- was directed to be paid to the victim by way of compensation.

2. The prosecution case is that, on 15/02/2016, the victim

boy was about 5 years of age. At about 8.30p.m. the accused who was a relative of the victim's father was asked to look after the victim. At about 9.00p.m. the accused dropped the victim and his younger brother at their house and then left. At that time, the victim informed his mother about the act of forcible unnatural penetrative sex which the applicant had committed on him. She told this fact to her husband and then F.I.R. was lodged. The investigation was carried out.

3. Learned counsel for the applicant submitted that, the applicant is falsely implicated. His defence is that, since he had started his own business which was competitive to victim's father's business, he is falsely implicated.

4. Learned APP, as well as, learned counsel for the Respondent No.2 opposed this application.

5. I have considered these submissions and have also perused the Judgment. Learned Judge has properly appreciated that there is hardly any dispute about the victim's age. It was argued before the learned Judge that there was an important

omission in respect of act committed by the appellant. However, learned Judge considered this submission and observed that, there was sufficient material in his statement before the police, as well as, in the statement recorded U/s.164 of Cr.p.c. The victim's statement is supported by his mother's evidence to the extent that victim had complained to her about the incident. During trial, these witnesses were examined by the prosecution. Learned Judge has relied on the evidence of mother of the victim and the victim himself.

6. Considering the evidence against the applicant and seriousness of the offence, no case for bail during disposal of Appeal is made out.

7. The application is rejected.

(SARANG V. KOTWAL, J.)