

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1608 OF 2022
IN
CRIMINAL APPEAL NO.543 OF 2022

Suryakant Raghunath Bagal ... Applicant
 vs.
 The State of Maharashtra and another ... Respondents

Mr. Raviraj R. Paramane for the applicant.

Smt. M. R. Tidke, APP for Respondent No.1-State.

Mr. Avinash A. Naik, Appointed Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J

DATE : 8th SEPTEMBER, 2022

P.C. :

1. This is an application for bail pending the hearing and final disposal of Criminal Appeal No.543/2022. The applicant was convicted for commission of offence punishable under Sections 8 and 9 of the Protection of Children from Sexual Offences Act, 2012 and under Section 3(1)(w)(i) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 2015 as well as under Section 354 of the Indian Penal Code, 1860. The maximum punishment imposed was of 5 years besides imposition of fine.

2. Prosecution case is that PW1 was called by the applicant in his room. The applicant was Superintendent of the hostel. He misbehaved with the PW1 and touched her breasts in an inappropriate way. Victim PW1 told this incident to her friends. One of the friends narrated similar incident. Villagers were informed and FIR was lodged and investigation was carried out.

3. Learned Counsel for the applicant submitted that in respect of the incident happened with PW1's friend, separate offence was registered and separate trial was conducted in which, the applicant was acquitted. Major part of the prosecution story was held to be false. He has submitted a certified copy of the judgment and order passed by the Additional Sessions Judge, Palhar in Special Case (Child Protection) No.11/2018. The same is taken on record of this application. He further submitted that therefore, a serious doubt is created on the allegations against the applicant.

4. Learned Counsel for the applicant submitted that the applicant was on bail during the trial and that the appeal is not likely to be heard in a short period.

5. Learned APP and learned Counsel for respondent No.2 submitted that the said judgment has no bearing on the facts of the present case. Deposition of PW1 is sufficient, clear and is supported by PW 4, PW5 and PW6 and therefore, the bail should not be granted to the applicant.

6. The applicant has some seriously arguable points, which can be decided at the final hearing stage. However, it is not likely to be taken up in the reasonable future. The applicant was on bail during trial and there are no allegations that he has misused the liberty. In view thereof, the applicant can be released on bail during the pendency of the appeal with certain conditions. Hence, the following order:-

- (i) During the pendency and final disposal of Criminal Appeal No.543/2022, the applicant is directed to be released on bail on his furnishing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.

- (ii) The applicant shall not contact the victim or her family member.
- (iii) The applicant shall not go anywhere near the hostel in question.

7. The application is disposed of accordingly.

(SARANG V. KOTWAL, J)

Priya Kambli