

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

**INTERIM APPLICATION NO.1677 OF 2022
IN
CRIMINAL APPEAL NO.573 OF 2022**

Narayan Ramchandra Agri ..Applicant

Versus

The State of Maharashtra & Anr. ..Respondents

Mr. Bharat Gadhavi i/b. Tejesh Dande and Associates for Applicant.

Smt. J. S. Lohokare, APP for State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 26th JULY 2022.

PC :

1. This is an application for bail and suspension of sentence pending hearing and final disposal of Criminal Appeal No.573 of 2022.

2. Heard Shri. Bharat Gadhavi, learned Counsel for the Applicant and Smt. J. S. Lohokare, learned APP for the State.

3. The applicant was convicted for commission of offence punishable under sections 5(n), 6, 3 and 4 r/w.6 of

the Protection of Children From Sexual Offences Act, 2012. He was also convicted for commission of offence punishable under sections 506 and 376 of Indian Penal Code. He was sentenced to suffer rigorous imprisonment for 14 years (Fourteen years) and to pay fine of Rs.1,00,000/- (Rupee One lakh only), in default of payment of fine to suffer Simple Imprisonment for the period of one year, as a major punishment for commission of an offence under sections 5(n) r/w.6 of the POSCO Act. Out of fine amount, an amount of Rs.75,000/- was directed to be paid to the victim as a compensation.

4. The prosecution case is that the victim was studying in 10th Standard. Her date of birth was 02.02.2000. The incident had taken place on 20.02.2015. The applicant was her cousin and was residing in the neighborhood. On the date of incident, the applicant took the victim to his house and committed rape on her. He threatened the victim. Thereafter, a meeting of the villagers was held on 22.03.2015. Nothing came out of

the meeting in favour of the victim and thereafter, the offence was registered vide C.R. No.8 of 2015 at Dighi Sagri Police Station. The investigation was carried out and the applicant faced the trial. During trial, the prosecution examined PW-1 the mother of the victim, PW-2 the victim herself and PW-7 Dr.Gautam Keshav Desai, Medical Officer. These are the important eye-witnesses. In all eight witnesses were examined. During deposition, the victim and mother stuck to their story. At the conclusion of the trial, the applicant was convicted.

5. Learned Counsel for the applicant submitted that there were no injuries on the private parts of the victim. The incident is not proved. The victim herself was having obscene photographs and CD in her possession and the applicant was falsely implicated as he knew about it. He has already deposited the fine amount. There were too many contradictions in the depositions of the victim and her mother.

6. Learned APP opposed this application on the

ground that the version is consistent and there is no reason to interfere with the findings of the Trial Court. She submitted that the offence is serious.

7. I have considered these submissions and I have perused the judgment and depositions. Learned Trial Judge has given cogent reasons and convicted the applicant.

8. PW-6 Rajani More, Head Master of the school where the victim was studying has produced the record and it is established that her date of birth was 02.02.2000. Therefore, at that time of incident she was 16 years of age. The narrations given by PW-1 and PW-2 are sufficiently consistent. The medical evidence produced on record through PW-7 Dr. Gautam Keshav Desai, mentioned that there was rupture of hymen. There were no injuries on private parts of victim. At this stage, the deposition of victim herself in this background is important.

9. The paragraph-25 of the impugned judgment

mentions the specific defence taken by the applicant. It is his case that, in the year 2012 when the victim was studying in 8th Standard, he had found obscene photographs and a CD in her possession. Since this was disclosed by him, he has been falsely implicated in this case. It was observed by the learned Trial Judge that the applicant himself has produced those obscene photographs, CD and the letter (Hamipatra) written by the victim before the villagers in the meeting which had taken place on 22.03.2015. It demonstrates that all these articles were with the applicant and he had actually used them. The applicant had found this material in the year 2012. He had kept this material with him for about three years. Producing such material before the villagers itself was detrimental to the victim. This circumstance is incriminating against him.

10. There is sufficient material against the Applicant. The maximum sentence awarded is 14 years. Therefore, I am not inclined to release the applicant on bail during the

pendency and final disposal of the appeal. The application is rejected.

(SARANG V. KOTWAL, J.)