

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

**INTERIM APPLICATION NO. 1797 OF 2021
IN
CRIMINAL APPEAL NO. 631 OF 2021**

Ramesh Sakharam Agare ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Ms. Ameeta Kuttikrishnan, Advocate (appointed) for Applicant.
Ms. Vrushali L. Maindad, Advocate (appointed) for Respondent No.2.
Mr. V. B. Konde-Deshmukh, APP for State/Respondent.

**CORAM : S. S. SHINDE AND
SARANG V. KOTWAL, JJ.
DATE : 5th MAY 2022.**

PC :

1. This is an application for bail pending the final hearing and disposal of Appeal. The applicant was convicted for commission of an offence punishable under section 376(2)(f) of the IPC. He was sentenced to suffer imprisonment for life and to pay a fine of Rs.5000/- in default to undergo R.I. for six months. He was also convicted for the offence under the Protection of Children from Sexual Offences Act, but no separate sentence was awarded.

2. Heard Ms. Ameeta Kuttikrishnan, learned counsel for the Applicant, Ms. Vrushali Maindad, learned counsel for the Respondent No.2 and Shri. Konde-Deshmukh, learned APP for the State.

3. The victim is daughter of the applicant. In the month of October, 2015, the applicant committed rape on her. She became pregnant and she gave birth to a child. In the meantime, she lodged an F.I.R. at Dehu Road police station vide C.R.No. 66 of 2016 on 30/03/2016. The investigation was carried out and the applicant was arrested. During trial, the prosecution examined six witnesses. PW-1 was the victim herself. PW-2 was the step mother of PW-1 and wife of the applicant. PW-3 was Dr. Arun Ambadkar, Medical officer. PW-4 Ramesh Bot was the spot pancha. PW-5 Jyoti Patil was the Investigating officer and PW-6 Nilima Baxi was the Assistant Director of Forensic Laboratory.

4. PW-1 victim has deposed against the applicant. She has narrated the incident in detail. The incident took place when she was studying in 7th standard. Her version is corroborated by PW-6

showing D.N.A. profile of the baby delivered by the victim is matched with the applicant i.e. her father.

5. Learned counsel for the applicant submitted that appropriate Section of POCSO Act was not applied. However, the conviction was also under section 376(2)(f) of IPC. The offence is sufficiently proved by the prosecution through the evidence of PW-1, as well as, PW-6. No case for bail is made out.

6. The Application is rejected.

(SARANG V. KOTWAL, J.)

(S. S. SHINDE, J.)