

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

**INTERIM APPLICATION NO. 2005 OF 2022  
IN  
CRIMINAL APPEAL NO. 726 OF 2022**

Tarik Arman Ali Shaikh ..Applicant.  
Versus  
The State of Maharashtra & Anr. ..Respondents

Mr. Anoop Pandey a/w. Tribhuwan N. Upadhyay for Applicant.  
Smt. M. R. Tidke, APP for State/Respondent No.1.  
Ms. Shradha D. Sawant, (appointed Advocate) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.  
DATE : 10<sup>th</sup> OCTOBER 2022**

**PC :**

1. This is an application for bail during pendency and final disposal of Criminal Appeal No.726 of 2022.

2. The applicant was convicted for commission of offence punishable U/s.4 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act') and was sentenced to suffer R.I. for 8 years and to pay a fine of Rs.20000/- and in default of payment of fine to suffer R.I. for 5 months. He was also convicted for commission of offence punishable U/s.12 of POCSO Act and

was sentenced to suffer R.I. for 1 year and to pay a fine of Rs.5000/- and in default to suffer R.I. for 1 month. Apart from these two sections, he was convicted U/s.376 of I.P.C. but separate sentence was not imposed in view of Section 42 of the POCSO Act. Both the sentences were directed to run concurrently.

3. Learned counsel for the applicant submitted that the applicant was on bail during trial. There was variance between medical history and deposition. He submitted that, there is delay in recording the police statement of the victim. The applicant was on bail during trial and, therefore, bail should be granted to him.

4. Learned counsel for the Respondent No.2, as well as, learned APP submitted that the victim had a low I. Q. The medical officer PW-6 opined that the evidence shows that there was penetrative sexual assault in the past. Therefore, the offence is proved.

5. I have considered these submissions. I have also read the depositions annexed to the Appeal. The victim has narrated the incident in detail. Her evidence is supported by the medical officer.

All the points raised by learned counsel for the applicant will have to be considered at the final hearing. However, for consideration of bail, I find there is sufficient material against the applicant. Therefore, the applicant cannot be granted bail during pendency of this Appeal.

6. The Application is, therefore, rejected.

**(SARANG V. KOTWAL, J.)**