

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

**INTERIM APPLICATION NO.2386 OF 2022
IN
CRIMINAL APPEAL NO.846 OF 2022**

Nasir Anis Shaikh Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. Pawan Mali, Advocate i/b. Kushal Ambulkar, for the Applicant.

Mr. P.H. Gaikwad, APP for the Respondent No.1-State.

Mr. Sushan Mhatre, Advocate (appointed) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th OCTOBER, 2022

P.C. :

1. This is an application for releasing the applicant on bail during pendency of his appeal.

2. The applicant is convicted by the Additional Sessions Judge and Special Judge under POCSO Act, Nashik

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vide his judgment and order dated 21.4.2022 passed in Special Case (Atrocity) No.22/2017. At the conclusion of the trial, the applicant was convicted for commission of offence punishable under Section 8 of the Protection of Children from Sexual Offences Act and under Section 354-A(i) of the Indian Penal Code. The major sentence imposed on him was for three years besides imposition of fine. He was acquitted from the charges of commission of offence punishable under the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act.

3. Heard Shri Pawan Mali, learned counsel for the applicant, Shri P.H. Gaikwad, learned APP for the respondent No.1-State and Shri Sushan Mhatre, learned appointed counsel for the respondent No.2.

4. Learned counsel for the applicant submitted that the applicant was on bail during trial. He has not misused the liberty. Even after his conviction, he was granted bail under Section 389(3) of Cr.PC. He submitted that the incident is improbable and indications are that only after the

others came to know about their affair, this false case is lodged.

5. Learned APP as well as learned counsel for the respondent No.2 opposed this application. They submitted that the evidence of PW-1 does not anyway indicate that it was a consensual affair. The evidence of PW-2 shows that PW-1's evidence is sufficiently corroborated. However, they conceded that the sentence imposed is short.

6. I have considered these submissions. The appeal is admitted and, therefore, all these points will have to be decided during final hearing of the appeal. The applicant was on bail during trial and he has not misused that liberty. Even after his conviction, he was granted bail by the trial Court. Therefore, during pendency of his appeal, bail can be granted to him. Hence the following order :

:: O R D E R ::

- i. During pendency and final disposal of Criminal Appeal No.846/2022, the applicant is directed to be released on bail on his furnishing P.R. 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 harass PW-1 in this case in any manner.
- iii. Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)

Deshmane (PS)