

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

**INTERIM APPLICATION NO. 2570 OF 2022
IN
CRIMINAL APPEAL NO. 145 of 2021**

Arbaz Moijjuddin Shaikh ..Applicant.
Versus
The State of Maharashtra & Ors. ..Respondents

Ms. Jyoti R. Shahu for Applicant.
Smt. M. R. Tidke, APP for State/Respondent No.1.

**CORAM : SARANG V. KOTWAL, J.
DATE : 4th AUGUST 2022**

PC :

1. The Applicant is convicted for commission of offence punishable U/s.376(2)(i) of I.P.C. and was sentenced to suffer R.I. for 10 years and to pay a fine of Rs.10,000/- and in default to suffer R.I. for six months. He was also convicted for commission of offence punishable U/s.363 of IPC and was sentenced to suffer R.I. for 5 years and to pay a fine of Rs.5000/- and in default to suffer R.I. for three months.

2. The Appeal was admitted on 30/04/2021. Vide order dated 12/07/2022 this Court (Coram: A. S. Gadkari, J.) has

directed to list the Appeal on final hearing board as per its own turn, under the caption "Accused is in Jail". The applicant, in the past, had made two applications for his release on bail during pendency of appeal. The first application was filed vide Interim Application No.516 of 2021 in Criminal Appeal No.145 of 2021. That application was rejected by this Court (Coram: Smt. Anuja Prabhudessai, J.) vide order dated 02/09/2021. It is a reasoned order mentioning the age of the prosecutrix girl as 13 years at the time of incident. The act committed by the applicant was of penetrative sexual assault and the medical evidence showed injury supporting the prosecution case. After this, again a second application vide Interim Application No.1036 of 2022 in the same Appeal was preferred in this Court. It was rejected by the same learned Judge vide order dated 29/06/2022. In spite of these two orders, this application is now again filed, but it is filed for temporary bail. The grounds for preferring this application are mentioned that the applicant is suffering from mental depression. He is a married man having minor child of 2 years. His wife is not ready to stay in the family. She wants to file a divorce petition. His

sister is facing difficulty in getting married because of pendency of this case. His family is in the mental stress and he is suffering from mental agony.

3. None of these grounds are useful for considering the applicant's application for his temporary release on bail, particularly in the light of conviction of serious offence recorded against him. Therefore, I am not inclined to allow this application.

4. The application is dismissed.

(SARANG V. KOTWAL, J.)