

INTERIM APPLICATION NO.2669 OF 2022
WITH
INTERIM APPLICATION NO.2668 OF 2022
IN
CRIMINAL APPEAL NO.795 OF 2022

.... Applicant

versus

.... Respondents

● ● ● ● ● ● ●

- Mr. Sudeep Pasbola, i/b. Apoorv V. Singh, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent No.1.
- Mr. Amit A. Mane (Appointed Advocate) for Respondent No.2.

DATE : 23rd SEPTEMBER, 2022

P.C. :

1. This is an application for release of the Applicant on bail during pendency and final hearing of the Criminal Appeal No.795 of 2022. The Appeal is already admitted.

(i) The Applicant was convicted for commission of offence punishable u/s 10 r/w 9 (m) of the

Protection of Children from Sexual Offences Act, 2012. He was sentenced to suffer imprisonment for 5 years and to pay a fine of Rs.50,000/- and in default of payment of fine to suffer simple imprisonment for six months.

(ii) The Applicant was convicted for commission of offence punishable u/s 354 of the Indian Penal Code and was sentenced to suffer imprisonment for 1 year.

(iii) The Applicant was convicted for commission of offence punishable u/s 354-A(1)(i) of the Indian Penal Code.

But no separate sentence was awarded.

(iv) The Applicant was given set off u/s 428 of Cr.P.C..

(v) All the sentences were directed to run concurrently.

2. Heard Mr. Sudeep Pasbola, learned counsel for the Applicant, Mr. Amit A. Mane, learned counsel for Respondent

No.2 and Smt. M. R. Tidke, learned APP for the State/ Respondent No.2.

3. Learned counsel for the Applicant states that the Applicant has already paid fine amount. He was in judicial custody since 22/02/2016 to 27/09/2016. The Applicant was on bail for rest of the period during trial. He has not misused the liberty. There are no allegations of harassment to victim or family members or anybody else. On merits he submitted that the prosecution is an outcome of a quarrel between the Applicant and the victim's mother. The quarrel had taken place on account of water connection. There were daily quarrels. This is deposed by the Defence Witness No.1 Kayamuddin Khan. He submitted that the Applicant has good case on merits. The sentence is short. The Appeal is not likely to be heard within a reasonable period.

4. Learned APP as well as the Respondent No.2 opposed this application. They submitted that it was not a case of the

Applicant that the victim was tutored. The details of the quarrel as deposed by the Defence Witness No.1 are not mentioned and therefore the defence has not proved its case. The offence is serious and bail should not be granted to the Applicant.

5. I have considered these submissions. The issues on merits will have to be decided during final hearing stage. The Appeal is already admitted. The major sentence imposed on him is of 5 years and the Appeal is not likely to be decided during that period. There is evidence of defence witness which will have to be seriously discussed. Taking into account this aspect in my opinion, the Applicant has made out case for his release on bail during pendency of final hearing and disposal of the Appeal.

6. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.795 of 2022, the Applicant

is directed to be released on bail on his furnishing PR. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.

- (ii) Both the Interim Applications stand disposed of accordingly.

(SARANG V. KOTWAL, J.)