

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

**INTERIM APPLICATION NO.2647 OF 2021
IN
CRIMINAL APPEAL NO.694 OF 2022**

Mohammed Ashraf Mohammed Wasir
Ansari

..... Applicant

Versus

State of Maharashtra & Anr.

.... Respondents

Mr. Ganesh Bhujbal, Advocate for the Applicant.
Smt. Veera Shinde, APP for the Respondent-State.

**CORAM :SARANG V. KOTWAL, J.
DATE : 26th JULY, 2022**

P.C. :

1. This is an application for bail pending hearing and final disposal of Criminal Appeal No.694/2022. The applicant was convicted for commission of the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act and was sentenced to suffer RI for 14 years and to pay fine of Rs.5,000/- and in default to suffer SI for 30 days. He was also convicted for the offence punishable under Section 376 of IPC and Section 10 of the

POCSO Act but separate sentence was not awarded in view of the major sentence awarded under Section 6 of the POCSO Act.

2. Heard Shri Ganesh Bhujbal, learned counsel for the applicant and Smt Veera Shinde, learned APP for the State.

3. The prosecution case is that the victim was eleven years of age at the time of incident. She was studying in 2nd standard in the school. In the month of April, 2015 her mother sent her to bring food from a hotel but she did not return. The mother lodged police complaint on 7.4.2015 at Nagpada police station, Mumbai. The police team went in search of the victim to Bihar; and from the house of the applicant, the victim and the accused were brought back to Mumbai on 15.4.2015. The investigation was carried out and the applicant faced the trial.

4. During trial, the prosecution examined seven witnesses. Out of which the depositions of PW-1 mother of the victim, PW-2 the victim herself and PW-3 PSI Liladhar

Patil, are important.

PW-1 has narrated the incident of her daughter missing in the night of 3.4.2015.

PW-2, the victim herself, has stated that when she went to a hotel to bring food, at that time the applicant gave her some tablet, due to which she felt giddy. Then he committed rape on her in the night and then on the next day he took her to his native place at Bihar in a train. He was residing with his wife and four children there. Again there, he committed rape on her for three days. After that the police came there and rescued her.

PW-3 PSI Liladhar Patil has stated that after the offence was registered at Nagpada police station, Mumbai vide C.R. No.152/2015, he and other police officers went to Khatangi, Sirdala police station, Bihar on 11.4.2015 along with two lady police officers. There he went to the house of the applicant. The victim and the applicant were found in the house. Both of them were taken back to Mumbai.

5. Thus, there is clinching and corroborative evidence against the applicant. There is hardly any defence available to him. Considering the seriousness of the offence, the strong quality of evidence against the applicant and the sentence imposed on him, no case for grant of bail during pendency of appeal is made out. The application is rejected.

(SARANG V. KOTWAL, J.)

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