

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

**INTERIM APPLICATION NO. 2983 OF 2022
IN
CRIMINAL APPEAL NO. 1004 OF 2022**

Akash Devidas Patil

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Anandmaya Dhorde i/b. Nitin Gaware Patil for Applicant.

Mr. S. R. Agarkar, APP for State/Respondent No.1.

Smt. Manisha A. Devkar (Appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 28th NOVEMBER 2022

PC :

1. This is an application for bail pending the Appeal. The applicant was convicted and sentenced by learned Additional Sessions Judge, Pune vide his Judgment and order dated 24/05/2022 passed in Special Case Child Prot. No.78 of 2018. The applicant was convicted for commission of offence punishable U/s.354-A(i) of the I.P.C. and under section 7 r/w. Section 8 of the Protection of Children from Sexual Offences Act. He was sentenced to suffer R.I. for 4 years and to pay a fine of Rs.5000/- and in

default of payment of fine to suffer imprisonment for one year. No separate sentence was imposed U/s.354-A(i) of the I.P.C. The Applicant was acquitted from the Charges of commission of offence punishable under section 323 r/w. 34 of I.P.C. Along with the applicant, his father had faced the trial as accused No.2. He was acquitted of all the Charges.

2. Learned counsel for the applicant submitted that the applicant is acquitted from the Charges U/s.323 of I.P.C. Those allegations formed major part of the prosecution case and since he is acquitted from that Charge, learned Judge has not accepted the prosecution case in its entirety. He submitted that the applicant was not known to the victim and yet test identification parade was not held, therefore, his identity is in dispute. The person who had identified the applicant is not examined. The applicant was on bail during trial. He has not misused the same. The applicant was 21 years of age at the time of incident. He has no antecedents. The sentence is short and the Appeal is not likely to be decided during that period.

3. Learned counsel for the Respondent No.2, as well as, learned APP opposed this application. They submitted that the evidence of PW-1-father of the victim and PW-2-victim is corroborating each other. Her age is also not in dispute. Therefore, the conviction is properly recorded.

4. I have considered these submissions. Learned trial Judge has acquitted applicant's father from the Charges of offence punishable under Section 323 of I.P.C. and the applicant himself was also acquitted from those charges. Those allegations formed major part of the evidence given by the victim and her father. She was not aware of the identity of the accused. The incident had taken place in October 2017. Learned APP conceded that, there are no further allegations that the applicant had harassed the victim after his release on bail during trial.

5. Considering all these aspects, the applicant has made out a case for his release on bail during pendency of his Appeal. All the questions raised on merits will have to be decided at the final hearing stage of the Appeal. Some arguable points are raised. The

sentence imposed is short, within which period the Appeal is not likely to be decided. Therefore, the Applicant deserves to be released on bail.

6. Hence, the order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.1004 of 2022 the Applicant is directed to be released on bail on his executing P. R. Bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) The Applicant shall not cause any harassment to the victim directly or indirectly.
- iii) The application is disposed of.

(SARANG V. KOTWAL, J.)