

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

**INTERIM APPLICATION NO.3082 OF 2022
IN
CRIMINAL APPEAL NO.920 OF 2022**

Somnath Tulshiram Mohite Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Mahendra N. Sandhyanshiv, Advocate for Applicant.
- Mr. Yogesh Y. Dabke, APP for the State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.
DATE : 20th SEPTEMBER, 2022

P.C. :

1. This is an application for bail pending disposal of Criminal Appeal filed by the Applicant. The Applicant was convicted by Additional Sessions Judge, Malegaon, vide Judgment and Order dated 02/08/2022 passed in Sessions Case No.113 of 2011. The Applicant was convicted for commission of offence punishable u/s 376, 363, 366 of the Indian Penal Code. The major punishment imposed on him was rigorous imprisonment for 10 years besides imposition of fine.

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2. Heard Mr. Mahendra N. Sandhyanshiv, learned counsel for the Applicant and Mr. Yogesh Y. Dabke, learned APP for the State.
3. Learned counsel for the Applicant submitted that the incident had allegedly taken place in July 2011 and when the FIR was lodged, the victim was sent for medical examination. At that time, she was found to be pregnant for two months. Learned counsel for the Applicant submits that this means that the Applicant had nothing do with her pregnancy. He submitted that the offence is old and the Applicant was on bail during the trial. He has not misused the liberty. He therefore submitted that the bail be granted to the Applicant pending disposal of the Appeal.
4. Learned APP opposed this application. He submitted that the offence is serious. The evidence of the victim is sufficient to base the conviction of the Applicant.
5. I have considered these submissions. I have also perused the evidence of the victim, who is examined as PW.1. At

the time of incident, she was around 14 years of age. Her date of birth was 18/05/1997 and the allegations pertain to the incident dated 13/07/2011. According to her, on that day she accompanied the Applicant to Shirdi. The Applicant had threatened her. They went to a room where he committed rape on her against her wish. After that, he went out. The victim was frightened. She made a telephonic call to her father through a coin box and then she was rescued. Thereafter the FIR was filed. At the time of medical examination she was found to be two months pregnant. However she has explained that the Applicant had committed said act on 2 to 3 occasion even earlier at her residence. All these issues will have to be considered at the stage of final hearing. However, considering the seriousness of the incident and sufficient evidence given by the victim, no case for bail is made out. The application for bail is therefore rejected. The Appeal is expedited.

(SARANG V. KOTWAL, J.)