

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

**INTERIM APPLICATION NO.4518 OF 2022
IN
CRIMINAL APPEAL NO.1296 OF 2022**

Prashant @ Parsram Srishail Tuppe Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Vikrant V. Phatate, Advocate for Applicant.
- Mr. S. R. Agarkar, APP for State/Respondent No.1.
- Mr. Sushil Inamdar (Appointed) Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2023**

P.C. :

1. This is an application for bail pending final disposal of the Applicant's Criminal Appeal No.1296 of 2022. The said Appeal was preferred by the Applicant along with his co-accused. The Applicant was the original accused No.2 in Special Case No.53 of 2015 before the Special Judge (POCSO) Act, Solapur. At the conclusion of the trial, the Applicant was convicted u/s 341, 376, 506, 506-II r/w 34 of the Indian Penal

Code. The major sentence imposed on him was for two years. His co-accused was convicted for other offences and maximum sentence imposed on him was for seven years.

2. Heard Mr. Vikrant V. Phatate, learned counsel for the Applicant, Mr. Sushil Inamdar, learned counsel for the Respondent No.2 and Mr. S. R. Agarkar, learned APP for the State.
3. Learned counsel for the Applicant submitted that the Applicant was on bail during trial and he has not misused that liberty. Even after his conviction he was granted bail u/s 389 of Cr.PC. for a limited period. He invited my attention to the evidence of the victim and submitted that the victim's evidence shows that the Applicant has not played any part in the main offence. There are only vague allegations against him that he has questioned the victim.

4. Learned counsel for the Respondent No.2 and Learned APP opposed this application on merits. However, they conceded that the sentence is short.

5. I have considered these submissions. I have perused the evidence of the victim. According to her, the first incident occurred on 10/05/2015. Her date of birth was 08/08/1999. The allegations are that the Applicant's brother i.e. the accused No.1 and who is the Applicant's co-Appellant in the present Appeal, had committed rape on the victim. After one month of that incident, the accused No.1 again tried to repeat the incident. But the victim ran away. As far as the present Applicant is concerned, the allegations against him are that on 29/07/2015 at about 12.00 p.m. the Applicant confronted the victim and questioned her as to why she had disclosed that incident to her parents. He threatened to harm her. These are the allegations against the Applicant. As can be seen, the main allegations are against the Applicant's co-accused. The sentence imposed on him is short. The Applicant was on bail during trial

and even after his conviction he was granted bail for a limited period u/s 389 of Cr.P.C.

6. In view of these factors, the Applicant can be granted bail during pendency of his Appeal.

7. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.1296 of 2022, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (ii) The Applicant shall not cause any harassment to the victim or her family directly or indirectly.
- (iii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)