

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

**INTERIM APPLICATION NO.1040 OF 2023
IN
CRIMINAL APPEAL NO. 313 OF 2023**

Anurag Motiram Bavkar ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

....

Mr. Rakesh Bhatkar Advocate for the Applicant.

Mr. Aliabbas Delhiwala, Advocate for Respondent No.2.

Ms. Pallavi N. Dabholkar, APP for the Respondent No.1 – State.

....

CORAM : PRAKASH D. NAIK, J.
DATE : 13th JUNE, 2023.

PER COURT:

1. This is an application for suspension of sentence and grant of bail. The applicant has been convicted for offences punishable under Sections 376(2)(n), 376(AB), 354, 354-A, 377, 506 of Indian Penal Code (for short “IPC”) and Sections 3(a) r/w Sections 4, 5(1)(m)(n), r/w Sections 6, 7 r/w Sections 8, 9(1)(m)(n) r/w Sections 10, 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’). The maximum sentence imposed by the trial Court is for 20 years.

2. The case of the prosecution is that, the victim girl aged around 10 years was sexually assaulted by the applicant. The applicant/accused is the uncle of the victim girl.

3. Learned Advocate for the applicant submitted that the applicant has been falsely implicated in this case. The victim girl had developed close intimacy with the elder brother of the applicant which was objected by him and he had advised the victim to stay away from him. There has been delay in lodging the First Information Report. The incident had occurred in July-August 2020 and the complaint was lodged on 10.02.2021. Although the applicant had examined, the defence witness whose statement was recorded by the Police during investigation, the said witness has deposed about the close acquaintance of the victim and the brother of the applicant. It is further submitted that the applicant's elder brother with whom the victim was closely acquainted had committed suicide and no investigation was done in that respect. The evidence suffers from serious contradictions. The applicant is in custody for a period of about two and half years.

4. Learned A.P.P. and learned Advocate for Respondent No.2 submitted that, the incident is of serious nature. The victim was aged around 10 years. The applicant is the uncle of the victim.

The victim has supported the prosecution case and the defence has not been able to demolish the version of the victim in the cross examination.

5. The victim in her evidence has attributed role of sexual assault to the applicant. Based on the evidence adduced by the prosecution, the applicant has been convicted. The finer intricacies of evidence will have to be appreciated at the stage of final hearing. No case is made out for suspension of sentence.

ORDER

- i. Interim Application No.1040 of 2023 is rejected and disposed of.
- ii. Hearing of Appeal is expedited.

(PRAKASH D. NAIK, J.)