

3. The applicant, vide Judgment and Order dated 28th February, 2023, passed by the learned Extra Joint District and Additional Sessions Judge, Panvel-Raigad, has convicted the applicant for the offence punishable under Section 363, 366, 376(2)(n) of the Indian Penal Code and Sections 3,4,5(l) & (n) r/w 6 of the Protection of Children from Sexual Offences Act, 2012, and has been sentenced to suffer life imprisonment till remainder of his life under Section 376(2)(n) of the Indian Penal Code.

4. Perused the papers, in particular, the statement of the prosecutrix, who, at the relevant time, was aged about 16 years 4 months. A perusal of the statement of the prosecutrix shows that she has not revealed the nature of act committed by the appellant all that she has stated is that she cannot tell what the accused was doing with her during night hours. A perusal of the evidence of Dr. Minakshi Sawant (PW4) shows that in the history given by the victim, she had disclosed as under;

“Patient says she knows the boy since 1 yr. She had gone with the boy and was with him since last 11 days and went to Jejuri & Kolhapur with him. She had sexual relations on two occasions in those 11 days.”

5. A perusal of the impugned Judgment and Order does not show how the learned Judge has come to the conclusion on the basis of the aforesaid evidence for convicting the applicant. It is not in dispute that the appellant was on bail, pending trial and has not abused the liberty granted to him.

6. Learned APP as well as learned Counsel appearing for the respondent No.2 do not dispute the evidence that has come on record. Vide order dated 28th March, 2023, we have admitted the appeal. The appeal is not likely to be heard in the immediate near future.

7. Having regard to the nature of the evidence that has come on record, the applicant's sentence is suspended and he is granted interim bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :

ORDER

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) The applicant shall report to the trial court, once in three months on the day/date specified by the trial court, till his Appeal is finally disposed of;
- (iii) The Applicant shall keep the trial Court informed of current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- (iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.