

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

**INTERIM APPLICATION NO. 1609 OF 2022
IN
CRIMINAL APPEAL NO. 544 OF 2022**

Paul Micheal Vaz	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. P. B. Patil for Applicant. _____
Mr. S. R. Agarkar, APP for State/Respondent No.1.
Smt. Vrishali R. Raje (Appointed Advocate) for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 31 JANUARY 2023**

PC :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The Applicant was convicted for commission of offence punishable U/s.9(n) r/w. Section 10 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act') and was sentenced to suffer R.I. for five years and to pay a fine of Rs.20000/- and in default of payment of fine to suffer R.I. for one year. He was also convicted for commission of offence punishable U/s.354 of the I.P.C. and was sentenced to suffer R.I. for three years and to pay a fine of

Rs.5000/- and in default of payment of fine to suffer R.I. for three months.

2. Heard Shri. Patil, learned counsel for the Applicant, Shri. Agarkar, learned APP for the State/Respondent No.1 and Smt. Vrishali Raje, learned Appointed Advocate for the Respondent No.2.

3. Learned counsel for the Applicant submitted that the applicant was on bail during trial. He is taken into the custody after his conviction. Before his conviction he was in custody for about seven months and after his conviction he is in custody for nine months. So, in all, the applicant is in custody for one year and four months. He submitted that the evidence shows that the relationship between the husband and wife who were parents of the victim was not cordial and the F.I.R. was lodged by the wife. This is a result of their dispute interse and the victim is used by the applicant's wife. He submitted that, it was not possible to believe that the first informant-mother of the victim would stay in the same house with the applicant for a period of at least three days

after she came to know about the acts committed by the applicant.

4. Learned counsel for the Respondent No.2, as well as, learned APP opposed this application on merits. They submitted that the offence is serious. The applicant was real father of the victim, therefore, the offence assumes more seriousness. Learned counsel for the Respondent No.2 further submitted that, there was no delay in lodging the F.I.R. The mother of the victim verified about the incident not only from the victim but from the babysitter and only after being convinced about the truthfulness, had lodged the F.I.R. Therefore, there was no delay in lodging the F.I.R. There is no question of informant's staying in the same house after she came to know about the incident.

5. I have considered these submissions. The points raised by both the sides will have to be decided at the final hearing stage of the Appeal. However, as mentioned earlier, the Applicant was on bail during trial and in all, he has spent more than one year and four months in custody; out of the sentence of five years imposed on him. The Appeal is not likely to be decided within a period of

his sentence. Considering all these aspects, the applicant can be granted bail pending final disposal of his Appeal; with certain conditions.

6. Hence, the following order:

O R D E R

i) During pendency and final disposal of Criminal Appeal No.544 of 2022, the Applicant is directed to be released on bail on his furnishing 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 or to the victim's mother.

iii) The Application is disposed of.

(SARANG V. KOTWAL, J.)