

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

**INTERIM APPLICATION NO.1969 OF 2022
IN
CRIMINAL APPEAL NO.1394 OF 2019**

Ashok Lekhu Rajat Applicant
versus
State of Maharashtra & Anr. Respondents

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- Ms. Ruchi Singh i/b. Akhilesh Singh, Advocate for Applicant.
- Smt. M. R. Tidke, APP for the State/Respondent No.1.
- Ms. Manisha A. Devkar (Appointed) Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 21st FEBRUARY, 2023**

P.C. :

1. This is an application as second attempt by the Applicant to seek bail during pendency of this Criminal Appeal No.1394 of 2019. Earlier he had filed Criminal Interim Application No.778 of 2020. That application was dismissed as withdrawn as is recorded in the order dated 03/05/2021.

2. Today, learned counsel for Applicant could not point out a single change in circumstance except passage of time. The Applicant was convicted for commission of offence punishable

u/s 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 and u/s 376 of the Indian Penal Code. The major sentence imposed on him was for 15 years rigorous imprisonment besides imposition of fine.

3. The prosecution case is that on 09/09/2014 at about 10.30 p.m. the Applicant took the victim to a public toilet and inserted his finger in her private part. The victim raised shouts. Her mother rushed there with a neighbour. She saw the Applicant there. The mother of the victim slapped the Applicant and also gave a blow with bucket which was there on the spot. After two days the mother of the victim lodged her FIR. The investigation was carried out. During trial, the main witnesses were the victim, her mother and the neighbour who was examined as P.W.2.

4. Learned counsel for Applicant submitted that the P.W.2 neighbour had not seen the incident. The medical evidence also does not support the prosecution case fully and there were no injuries to the victim's private part and the hymen was intact.

5. I have considered these submissions. The victim's evidence is quite clear. She has narrated the incident with sufficient clarity. She has identified the Applicant before the Court. There was no reason to implicate him falsely. Though there were no injuries to her private part, however, the medical officer who is examined as P.W.3, has explained that the passage of two days, may have caused healing of the injury. In this case, the victim was examined after two days. She further explained that if the finger was not inserted with force, the hymen will not be ruptured. She has also opined that fingering could not be ruled out.

6. Thus, at this stage, there is sufficient material against the Appellant and the allegations are serious. Therefore, I am not inclined to grant bail to the Applicant. Hence the application is rejected. The hearing of the Appeal is expedited.

(SARANG V. KOTWAL, J.)