

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

**INTERIM APPLICATION NO.2520 OF 2022
IN
CRIMINAL APPEAL NO.1170 OF 2022**

Appau Punnaswami DevendraApplicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. Keshav S. Chavan, Advocate for the Applicant.
Mr. S.R. Agarkar, APP for the Respondent No.1-State.

CORAM : SARANG V. KOTWAL, J.

DATE : 9th FEBRUARY, 2023

P.C. :

1. This is an application for bail pending appeal preferred by the applicant. The applicant was convicted and sentenced by the Additional Sessions Judge, Greater Mumbai vide judgment and order dated 6.4.2022 passed in Sessions Case No.239/2020. The applicant was convicted for commission of offences punishable under Sections 376, 452, 324, 354, 509 of IPC. The major sentence imposed on him was for ten years besides imposition of fine.

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2. Heard Shri Keshav Chavan, learned counsel for the applicant and Shri S.R. Agarkar, learned APP for the respondent No.1-State.

3. The incident took place on 21.11.2019. The victim was examined as PW-2. She had described that in that night the appellant entered her house. He was drunk. He assaulted her and committed rape on her. It was repeated on two occasions. She informed the incident to her neighbour, went to the hospital, then to the police station and then lodged her FIR.

4. Learned counsel for the applicant submitted that initially FIR was lodged on 22.11.2019 only under Section 354 of IPC. But, after five days, her supplementary statement was recorded and the offence under Section 376 of IPC was added based on her supplementary statement. He, therefore, submitted that there is improvement in the story which shows that it is a false case. He, therefore, prayed for grant of bail to the applicant during pendency of his appeal.

5. Learned APP opposed this application and he relied on the medical evidence corroborating the prosecution evidence.

6. I have considered these submissions. I have also perused the evidence of the victim PW-2 as well as the evidence of the medical officers who are examined as PW-8 Dr. Vijayan and PW-4 Dr. Chavan. The evidence of PW-4 mentions the injuries suffered by the prosecutrix as follows:

- “[i] Abrasion with black seat fallen off present on upper surface, left shoulder of size 4 cm x 2.5 cm.;
- [ii] contusion below left clavical of size 8 cm x 4 cm greenish;
- [iii] sutured wound of length of size 3 cm on left parietal region;
- [iv] contusion present on both eyes of size 3 cm x 2.5 cm, blueish black.”

7. The opinion was consistent with the old sexual intercourse with assault. This evidence does support the prosecution case. The evidence of PW-8 shows that she had nasal swelling and tenderness. Those were fresh injuries. Thus, the medical evidence supports the ocular evidence. No case for bail is made out. The application is rejected.

(SARANG V. KOTWAL, J.)