

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

**INTERIM APPLICATION NO.3185 OF 2022
IN
CRIMINAL APPEAL NO.1171 OF 2022**

Sushil Dinesh Bhadakwad Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Manoj B. Bagal, Advocate for Applicant.
- Smt. M. R. Tidke, APP for State/Respondent No.1.
- Mr. Sachin B. Chandan (Appointed) Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 02nd FEBRUARY, 2023**

P.C. :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The Applicant was convicted and sentenced by the Additional Sessions Judge, Pune, vide his Judgment and Order dated 30/04/2022 passed in Special (POCSO) Case No.412/2016.

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2. The Applicant was convicted for commission of offence punishable u/s 363, 366-A of the Indian Penal Code and u/s 4 of the Protection of Children from Sexual Offences Act, 2012. The major sentence imposed on him was 7 years besides imposition of fine.
3. Heard Mr. Manoj B. Bagal, learned counsel for the Applicant, Mr. Sachin B. Chandan, learned counsel for the Respondent No.2 and Smt. M. R. Tidke, learned APP for the State.
4. Learned counsel for the Applicant submitted that the evidence of the victim is unbelievable. The incident could not have taken place when the mother of the Applicant was present in the next room. He submitted that the date of incident is also mentioned differently in the deposition and before the Medical Officer. He submitted that the prosecution case is not proved.

5. Learned APP as well as learned counsel for Respondent No.2 opposed these submissions. They submitted that her date of birth was 03/07/1999. The birth certificate is produced at Ex.29. Therefore on the date of offence i.e. in July 2016, she was below 18 years of age. Therefore her age was immaterial. She had given sufficient details about the incidents when the Applicant had established physical relations with her.

6. I have considered these submissions. As rightly pointed out by learned APP and learned counsel for Respondent No.2, there is sufficient evidence against the Applicant. He is in custody for 1 ½ years after his conviction. Out of 7 years of sentence, substantial sentence is still remaining. Therefore, I do not find it a case where the bail can be granted to the Applicant. The application is rejected. The hearing of Appeal is expedited.

(SARANG V. KOTWAL, J.)