



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

**INTERIM APPLICATION NO.3417 OF 2022
IN
CRIMINAL APPEAL NO.127 OF 2023**

Nikhil Govind Lalwani ... Applicant
Versus
The State of Maharashtra And Another
(Through Kindhawa Police Station) ... Respondents

Mr. P.B. Gujar for the Applicant.

Mr. A.R. Patil, APP for Respondent No.1-State.

Ms. Priyanka Chavan (Appointed Advocate) for Respondent No.2.

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 25 OCTOBER 2023

P.C.

. This is an application for suspension of sentence of imprisonment imposed upon the Applicant by the Special Judge, Special Court, POSCO Act, Pune in Special Case No.36 of 2018, thereby convicting the Applicant for the offence punishable under Section 376(2)(i) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for twenty years

2. Learned Counsel appearing for the Applicant submits that there

is material variance in history recorded at the time of medical examination of the victim and deposition of the victim and her mother and the benefit of the same needs to be given to the Applicant. He further submits that the prosecution has failed to prove the case beyond the reasonable doubt.

3 Learned APP appearing for the Respondent-State and learned Counsel appearing for Respondent No.2, on the other hand, have opposed the Application contending that the prosecution has brought on record sufficient evidence to sustain the conviction of the Applicant.

4 I have given a careful consideration to the rival submissions. Perused evidence of prosecution's witnesses and other evidence brought on record by the prosecution. In my *prima facie* opinion, findings recorded by the Trial Court are sustainable, as there is sufficient evidence to sustain the conviction of the Appellant. In that view of the matter, I do not wish to elaborate reasons in this Order, as the criminal appeal filed by the Applicant/Appellant is pending for hearing and final disposal. No case for bail pending the appeal is made out. The Interim Application is rejected.

5 The hearing of the Criminal Appeal is expedited.

(NITIN B. SURYAWANSHI, J.)