

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

**INTERIM APPLICATION NO. 3998 OF 2022
IN
CRIMINAL APPEAL NO. 1160 OF 2022**

Datta Laxman Dhaware ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Nagesh Y. Chavan for Applicant.
Mr. S. R. Agarkar, APP for State/Respondent No.1.

**CORAM : SARANG V. KOTWAL, J.
DATE : 23 FEBRUARY 2023**

PC :

1. This is an application for bail pending final disposal of the applicant's Criminal Appeal No.1160 of 2022. The applicant's appeal is already admitted. He has challenged the Judgment and order dated 07/09/2022 passed by learned Additional Sessions Judge, Sangli, in Special Case (POCSO) No. 60 of 2017. The applicant was convicted for commission of offences punishable under sections 376(2)(i) and 376(2)(n) of the I.P.C. and U/s.6 of the Protection of Children from Sexual Offences Act. He was sentenced to suffer R.I. for 10 years and to pay a fine of

Rs.10000/- and in default of payment of fine to suffer further R.I. for one year.

2. Heard Shri. Nagesh Chavan, learned counsel for the applicant and Shri. Agarkar, learned APP for the State. I have also perused the evidence annexed to this appeal and the copy of the impugned Judgment.

3. Learned counsel for the applicant submitted that the applicant was on bail during trial and there are no allegations that he had misused that liberty. He further submitted that the evidence of the prosecution in respect of D.N.A. samples is not clear and there is nothing to show that the samples were preserved properly. He further submitted that the evidence of the victim is not believable.

4. Learned APP opposed these submissions. He relied on the observations made in paragraph 21 and 22 of the impugned Judgment, as well as, on the evidence of the victim.

5. I have considered these submissions. The victim was merely 12 years of age at the time of incident. The applicant was

residing behind her house. He continuously pursued her and finally committed sexual intercourse with her on 4 to 5 occasions at different places. Resultantly, she became pregnant. Her pregnancy was terminated and the DNA samples of the applicant, the victim and the product of conception were sent for analysis. The paragraph Nos.21 and 22 of the impugned Judgment referred to these facts. It is observed that the DNA analysis report showed that the appellant and the victim were the biological parents of the product of conception. In this view of the matter, there is direct evidence against the applicant. At the time of commission of the offence, he was about 30 years of age and the victim was quite young. Considering all these aspects and the nature of offence, no case for grant of bail is made out. The evidence cannot be analyzed in depth, at this stage, but suffice it to say at this stage that, there is sufficient material against the applicant.

6. The application is rejected.

(SARANG V. KOTWAL, J.)