

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

**INTERIM APPLICATION NO.3943 OF 2022
IN
CRIMINAL APPEAL NO.1150 OF 2022**

Abrar Noor Mohammad Khan Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Sachin Chandan, Advocate for Applicant.
- Mr. S. R. Agarkar, APP for State/Respondent No.1.
- Mr. Vivek Arote (Appointed) Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 01st MARCH, 2023**

P.C. :

1. The Applicant is seeking his release on bail during pendency of his Criminal Appeal No.1150 2022 which is already admitted. The Applicant was convicted and sentenced for commission of offence punishable u/s 12 of the Protection of Children from Sexual Offences Act, 2012 and u/s 354 of the Indian Penal Code. The maximum sentence imposed on him was one year and six months besides imposition of fine.

2. Heard Mr. Sachin Chandan, learned counsel for the Applicant, Mr. Vivek Arote, learned counsel for the Respondent No.2 and Mr. S. R. Agarkar, learned APP for the State.
3. The prosecution is that the victim was around 15 years of age. The Appellant used to follow her persistently. The incident occurred on 14/07/2015 when the victim was returning from her school. He approached her and referred her by derogatory words and abused her. The victim dialed number 100. The police came there and took her to the police station and recorded her FIR. In the meantime, the Applicant ran away.
4. Learned counsel for the Applicant submitted that her birth certificate is not proved in accordance with law and therefore there is nothing to show that she was below 18 years of age. Therefore, the Applicant's conviction under POCSO is not sustainable. He further submitted that there was no other independent witness. There are discrepancies in the depositions of the police officers. He submitted that the sentence is short.

The Appeal is not likely to be decided within that short period. The incident is old. The Applicant was on bail during trial. There are no allegations of misuse of that liberty.

5. Learned counsel for the Respondent No.2 as well as learned APP opposed this application on merits. However, they conceded that the sentence is short.
6. I have considered these submissions. The issues raised will have to be considered at the final hearing stage. The sentence imposed is short. The Appeal is not likely to be decided within that short period. The incident had occurred on 14/07/2015. More than 7 years have passed. The Applicant was on bail during trial. There are no allegations of misuse of that liberty.
7. Considering these factors, the Applicant can be granted bail during pendency of his Appeal.

8. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.1150 of 2022, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand only), with one or two sureties in the like amount.
- (ii) The Applicant shall not cause any harassment to the victim or her family in any manner.
- (iii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)