

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

**INTERIM APPLICATION NO.3963 OF 2022
IN
CRIMINAL APPEAL NO.699 OF 2022**

Onkar @ Pappu Umesh Jadhav Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Vasantkumar V. Takke a/w Shreekrishna N. More a/w Animesh Jadhav, Advocate for Applicant.
- Mr. S. R. Agarkar, APP for State/Respondent No.1.
- Mr. Shaikh Mohd. Yakub Mohd. Yusuf (Appointed) Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 25th JANUARY, 2023**

P.C. :

1. This is an application for suspension of sentence and consequential release on bail during pendency of the Applicant's Appeal pending before this Court. The Applicant was convicted and sentenced by the Extra Joint Additional Sessions Judge, Pune, vide his Judgment and Order dated 27/04/2022 passed in Special Case (POCSO) No.432/2019.

- (i) The Applicant was convicted for commission of offence punishable u/s 354, 354-D of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs.5,000/- and in default of payment of fine to suffer rigorous imprisonment for three months.
- (ii) He was acquitted from the charges of offence punishable u/s 354-B of the Indian Penal Code.

2. Heard Mr. Vasantkumar V. Takke, learned counsel for the Applicant, Mr. Shaikh Mohd., learned counsel for the Respondent No.2 and Mr. S. R. Agarkar, learned APP for the State.

3. Learned counsel for the Applicant submitted that the Applicant was on bail during trial and even after his conviction he was granted bail for a limited period u/s 389 of Cr.P.C. He submitted that the victim has not complained against him and has deposed against him at the behest of her family. In fact, it was a love affair between the victim and the Applicant. He

submitted that considering the young age of the Applicant, at the behest it can be an act of immaturity and not a criminal offence. He submitted that the sentence is short.

4. Learned counsel for Respondent No.2 as well as learned APP opposed this application on merits. However, they conceded that the sentence is short.

5. I have considered these submissions and I have also perused the evidence of the victim, who is examined as PW.1. The incident is dated 24/01/2019. More than 4 years have passed. Even the Applicant at that point of time was quite young. From the evidence it does appear that, it is an act arising out of immaturity, rather than any criminal offence. However, all these points will have to be decided at the final hearing of the Appeal. The Applicant was on bail during trial. There are no allegations of misuse of that liberty. Even after his conviction he was granted bail by the Trial Court u/s 389 of Cr.P.C. for a limited period. The Appeal is not likely to be decided within one

year. Hence, the Applicant can be granted bail during pendency of his Appeal.

6. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.699 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 in any manner.
- (iii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)