

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

**INTERIM APPLICATION NO.4531 OF 2022
IN
CRIMINAL APPEAL [STAMP] NO.22258 OF 2022**

Sagar Ramesh JadhavApplicant
Versus
The State of Maharashtra & Anr. Respondents

Ms. Hema M. Whaval, Advocate (appointed) for the
Applicant.

Mr. S.R. Agarkar, APP for the Respondent No.1-State.

**CORAM : SARANG V. KOTWAL, J.
DATE : 3rd FEBRUARY, 2023**

P.C. :

1. This is an application for bail pending final disposal of the appeal.

2. The applicant was convicted and sentenced by the Extra Jt. Additional Sessions Judge, Karad vide judgment and order dated 17.1.2022 passed in Special Case No.65/2018. The applicant was convicted for commission of the offence punishable under Section 354-A of IPC and was sentenced to suffer RI for one year and to pay fine of

Rs.10,000/- and in default of payment of fine to suffer RI for three months. The applicant was also convicted for commission of offence punishable under Section 7 read with Section 8 of the Protection of Children From Sexual Offences Act, 2012 (for short, 'POCSO Act') and was sentenced to suffer RI for three years and to pay fine of Rs.10,000/- and in default of payment of fine to suffer RI for six months.

3. Heard Ms. Hema Whaval, Advocate (appointed) for the applicant and Shri S.R. Agarkar, learned APP for the respondent No.1-State.

4. Learned counsel for the applicant submitted that because of his weak financial condition, the appeal could not be filed within time. It was filed through the help of Legal Services Authority of this Court. The delay in filing the appeal is condoned by a separate order. The appeal is already admitted. She submitted that the applicant is in custody since 17.1.2022 after his conviction. He has spent more than one year, out of the sentence of three years in custody; serving out his sentence. She submitted that the

applicant was on bail during trial. She further submitted that the two main witnesses i.e. the victim and her father have not supported the prosecution case and, therefore, the applicant deserves to be released on bail.

5. Learned APP very fairly supports her contention.

6. I have considered these submissions. The victim is examined as PW-2 and her father is examined as PW-3. The alleged incident was dated 29.9.2018. It is alleged that the appellant took the victim in his arms in an agricultural field. Based on these allegations, the FIR is lodged by PW-3. However, during trial neither PW-3 i.e. the father of the victim nor the victim herself who is examined as PW-2 has supported the prosecution case.

7. Considering this, it does appear that the applicant does have a very good case on merits for acquittal. In spite of that he is already in custody for more than one year. Therefore, the applicant deserves to be released on bail immediately.

8. Hence, the following order :

:: O R D E R ::

- i. During pendency and final disposal of Criminal Appeal (Stamp) No.22258/2022, the applicant is directed to be released on bail on his furnishing PR. bond in the sum of Rs.10,000/- (Rupees Ten Thousand Only).
- ii. The Superintendent of Jail and the trial Court shall ensure that the applicant is released on bail as expeditiously as possible.
- iii. Interim Application is disposed of accordingly.

9. The Registry is directed to communicate this order to the concerned Superintendent of Jail and the Trial Court, forthwith

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by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
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(SARANG V. KOTWAL, J.)

Deshmane (PS)