

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

**INTERIM APPLICATION NO.1270 OF 2023  
IN  
CRIMINAL APPEAL NO.400 OF 2023**

Hajiba Bairu Phonde .....Applicant  
Versus  
The State of Maharashtra  
and another .... Respondents

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Mr.Mohit Dalvi, Advocate i/b. Rakesh Bhatkar for the  
Applicant.

Smt. Sangita D. Shinde, APP for the Respondent-State.

Ms. Meghna Gowalani, Advocate (appointed) for the  
Respondent No.2.

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**CORAM : SARANG V. KOTWAL, J.**

**DATE : 19<sup>th</sup> AUGUST, 2024**

**P.C. :**

1. This is an Application for bail pending Appeal.
2. The Applicant was the original accused No.1 in Special Case No.4/2022 before the Additional Sessions Judge, Ratnagiri. The learned Judge vide the judgment and order dated 10.3.2023 convicted the Applicant for commission of the offence punishable under Section 7 read with 8 of the Protection of Children From Sexual Offences

Act, 2012 (for short, 'POCSO Act') read with 34 of IPC, under Section 11 read with 12 of the POCSO Act read with 34 of IPC and under section 354-A and 354-B read with 34 of IPC. He was sentenced to suffer SI for three years, as a major punishment besides imposition of fine amount.

3. Heard Mr.Mohit Dalvi, learned counsel for the Applicant, Smt. Sangita Shinde, learned APP for the Respondent-State and Ms. Meghna Gowalani, learned appointed counsel for the Respondent No.2.

4. The prosecution case is that some boys were following the victims on their motorcycle. The victims were in the age group of 15 years. They were school going girls. On the date of incident in February, 2022, two of the boys came in a rickshaw and one of the boys pulled one of the victims in the rickshaw. In the meantime, the crowd gathered there and taking advantage of the crowd, the two boys went away in that rickshaw.

5. Learned counsel for the Applicant submitted that he had not committed any offence. He is prosecuted on the basis of suspicion. The Applicant was on bail during the trial and he has not misused that liberty. Even after his conviction, he was granted bail under Section 389 of Cr.P.C.

6. Learned APP and learned counsel for the Respondent No.2 submitted that the offence is serious. There is strong evidence against the Applicant.

7. The merits of the matter will have to be decided at at the final hearing stage. However, the sentence imposed on the Applicant is only for three years. The Appeal is not likely to be decided during that period. The Applicant was on bail during the trial. Even after his conviction, he was granted bail under Section 389 of Cr.P.C. which was continued by the earlier Benches of this Court on the previous occasions. Considering this situation, The Applicant can be granted bail pending his Appeal on certain conditions. Hence, the following order:

**ORDER**

- (i) During pendency and final disposal of Criminal Appeal No.400/2023, the Applicant is directed to be released on bail on his executing PR. 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 any of the victims or their families.
- (iii) Interim Application is disposed of accordingly.

**(SARANG V. KOTWAL, J.)**