

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

**INTERIM APPLICATION NO.3617 OF 2023
IN
CRIMINAL APPEAL NO.1342 OF 2023**

Narayan Balu Shigvan

.... Applicant

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Shashikant D. Chandak, appointed Advocate through Legal Aid Panel, a/w Kanchan S. Chandak aw/ Ruchi Nagda, Advocate for Applicant.
- Smt. Manisha R. Tidke, APP for the State/Respondent.
- Mr. Ankit Pandey, appointed advocate through Legal Aid Panel, for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 01st JULY, 2024

P.C. :

1. The Applicant is seeking his release on bail during pendency of his Appeal. The Applicant was convicted by the Judgment and Order dated 10/02/2023 passed by the Additional Sessions Judge, Ratnagiri, in Sessions Case No.7/2019, for commission of offence punishable u/s 376(2)(j) and 376(2)(l) of the Indian Penal Code. He was sentenced to

suffer rigorous imprisonment for 10 years and to pay a fine of Rs.50,000/- and in default of payment of fine to suffer simple imprisonment for one year for each of the offences. Rs.80,000/- was directed to be given to the victim by way of compensation out of the fine amount.

2. Heard Mr. Shashikant D. Chandak, learned counsel for the Applicant, Mr. Ankit Pandey, learned counsel for the Respondent No.2 and Smt. Manisha R. Tidke, learned APP for the State.
3. The prosecution case is that the victim was having low IQ. Though her biological age was 19 years, her mental age was 6 years. The incident took place on 13/11/2018, on which date the Applicant committed rape on her. She narrated this to her friend and then to her aunt, after which the FIR was lodged and the Applicant was arrested.
4. Learned counsel for the Applicant submitted that the medical evidence does not really support the prosecution case.

The mental age of the victim is not correctly mentioned. She was able to do all the household work. There was some financial dispute between the aunt of the victim, at whose behest the prosecution is launched, and the present Applicant. Due to which the prosecution is launched. He submitted that he is in custody for more than 5 ½ years and therefore he be granted bail.

5. Learned APP and learned counsel for the Respondent No.2 opposed these submissions. They relied on the evidence of the victim.

6. I have considered these submissions. The victim is examined as the P.W.5. In her evidence she has narrated a specific incident against the present Applicant. In the cross-examination she admitted that before lodging of the complaint, there was a meeting held in the building. She denied the suggestion that she was tutored to depose in the Court.

7. The evidence of P.W.12 Dr. Mahesh Bhagwat shows that

he had found that there was sexual intercourse. But there were no external injuries as the incident had occurred prior to 10 days before the examination. According to him, the victim was having IQ of 35 and her mental age was of 6 years. There is a strong evidence of the victim herself against the present Applicant.

8. Considering the gravity of the offence, no case for bail pending the Appeal is made out. Therefore the application is rejected.
9. However considering that the Applicant is in custody for a long time, the Appeal be added to the weekly final hearing board commencing from 05/08/2024. If the Appeal could not be taken up for final disposal within a reasonable time, learned counsel for the Applicant shall mention the Appeal for final hearing or make an application to renew his prayer for bail.
10. With these directions the application is disposed of.

(SARANG V. KOTWAL, J.)