

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

**INTERIM APPLICATION NO. 3937 OF 2023  
IN  
CRIMINAL APPEAL NO.1193 OF 2023**

Prashant Ramchandra Rendalkar ..Applicant

Versus

The State of Maharashtra & Anr. ..Respondents

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Mr. Narayan Rokade a/w. Udaysinh Deshmukh a/w. Abhay Suryawanshi a/w. Pratibha Pawar a/w. Ajinkya Taskar for Applicant.

Mr. Shrikant H. Yadav, APP for State/Respondent.

Mr. Sushan Mhatre (appointed Advocate) for Respondent No.2.

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**CORAM : SARANG V. KOTWAL, J.  
DATE : 30 JULY 2024**

**PC :**

1. This is an application for suspension of the sentence and releasing the applicant on bail during pendency of his Appeal. The Applicant was the accused before the Additional Sessions Judge, Sangli, in Sessions Case No.27 of 2020. The learned Judge vide the Judgment and order dated 08.09.2023 convicted him for

commission of the offence punishable U/s.376(2)(l) of the I.P.C. and sentenced him to suffer R.I. for 10 years and to pay a fine of Rs.5000/- and in default to suffer R.I. for six months. The Applicant was arrested on 13.09.2019 and since then he is in custody.

2. Heard Mr. Narayan Rokade, learned counsel for the Applicant, Mr. Shrikant Yadav, learned counsel for the State/Respondent and Mr. Sushan Mhatre, learned counsel for the Respondent No.2.

3. The prosecution case is that the victim in this case had low I.Q. from her birth. The incident took place when she was around 18 years of age. It is the prosecution case that, on 08.09.2019, at around 3:00p.m. the victim had gone to collect their cattle. She came back at around 3:45p.m. She informed her grandmother that one person had committed rape on her. She was taken in a shed in a nearby agricultural field and the offence was committed there. The grandmother asked her as to where that person had gone. The victim told the grandmother that, he had

proceeded towards Tasgaon. At that time, the applicant was seen proceeding towards Tasgaon on a small bridge. The victim pointed out towards him and told her grandmother that he was the same person. The grandmother and the victim then followed him to Tasgaon. He was sitting outside a country liquor shop. The victim identified him. Her grandmother complained to the others present there. All of them assaulted the applicant. After that, the F.I.R. was lodged by the victim's grandmother.

4. Learned counsel for the applicant submitted that the incident is not true. The applicant is falsely implicated. The victim has admitted in her cross-examination that, she was deposing as per the instructions given to her by her grandmother. He submitted that, there is serious dispute about the identity of the culprit. The applicant is in custody since 13.09.2019. Almost five years have passed. The maximum sentence is of 10 years. The Appeal is not likely to be decided within that balance period. Therefore, the applicant be granted bail.

5. Learned counsel for the Respondent No.2, as well as,

learned APP opposed these submissions. According to them, there was no previous enmity between the victim's grandmother and the applicant and, therefore, there was no reason for false implication of the applicant. They submitted that the F.I.R. was lodged immediately. The victim had pointed out the culprit immediately and, therefore, the prosecution has proved its case beyond reasonable doubt.

6. I have considered these submissions. The victim's evidence is recorded. She was PW-9. The victim identified the applicant in the Court when he was shown to her on the screen. In the cross-examination, she had given some answers which are strongly in favour of the applicant. She admitted that, she had seen the applicant on that day itself.

7. In the next questions i.e. Question Nos.96 to 100 which are direct questions regarding the incident, she has categorically stated that, she had deposed according to what her grandmother had asked her to depose. This is very clear admission that she was tutored by her grandmother. Apart from that, there is serious

doubt about the identity of the offender. In the F.I.R., it was mentioned that, when the grandmother asked the victim about the identity of the offender, she had pointed out towards the applicant who was walking on a bridge and going towards Tasgaon. They had followed him up to Tasgaon and then again the victim had pointed towards him. However, in the deposition of grandmother all these things are entirely absent. According to her, before the incident the applicant was sitting on the bench. There was no reference to the applicant walking on the bridge and the victim pointing towards him. Her deposition further mentions that, they took search of the applicant and then he was found at one country liquor shop. This story is contrary to the version in the F.I.R. Thus, serious doubt is raised about the prosecution case. The applicant is already in custody for about five years. In this situation, the applicant deserves to be released on bail during the pendency of his Appeal.

8. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.1193 of 2023, the Applicant is directed to be released on bail on his furnishing P. R. bond in the sum of Rs.30000/- with one or two sureties in the like amount.
- ii) The Application is disposed of.

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