

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

**INTERIM APPLICATION NO.470 OF 2023
IN
CRIMINAL APPEAL NO.227 OF 2023**

Mohammad Haroon Maqbul Ansari .. Applicant
vs.
State of Maharashtra & Anr. .. Respondents

Mr. Prashant P. Jadhav with Syed Shabana M. Ali for the Applicant.
Mr. S. V. Gavand APP for the Respondent No.1-State.
Mr. Jai Kanade i/b Rahul Shirgavkar for the Respondent No.2.

**CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.**

DATE : 9th FEBRUARY, 2024

P. C.:-

1) This is an Application for suspension of sentence and for releasing the Applicant on bail.

2) The Applicant is convicted under Section 376(2) of the Indian Penal Code and under Section 6 of the POCSO Act and is sentenced to suffer rigorous imprisonment for life i.e. imprisonment for the remainder of accused's natural life and to pay a fine of Rs.10,000/- by the learned Special Judge under (POCSO) Act, Greater Mumbai by its Judgment and Order dated 31st August 2019.

3) The evidence on record indicates that, the victim was aged

about 15 years on the date of lodgement of crime. The victim was mentally retarded girl having IQ of a child of four and half years. The Applicant was having a grossary shop in the vicinity. That, when the victim had been to his shop, under some or other pretext lured her and took her inside the shop and committed forcible sexual intercourse with her atleast on three occasions. The mother of the victim subsequently noticed that the victim did not have menstrual cycle on two consecutive months and therefore took her to doctor (P.W.14) for medical examination. The concerned doctor diagnosed her to be pregnant of 19 weeks and advised to undergo M.T.P. Subsequently, the present crime came to be registered. The DNA report indicates that, the Petitioner being biological father of said fetus of victim.

3.1) Perusal of the evidence of victim (P.W.2) *prima facie* indicates that the victim has identified the Applicant as the perpetrator of the present crime. She has also narrated the ordeal suffered at the hands of the Applicant. In her cross examination she has denied the suggestion that, the identity of the Applicant was initially disclosed to her by the police. Thus, *prima facie* it appears that, though the victim was mentally challenged girl, has properly identified the Applicant as a person who committed alleged act against her.

4. Prima facie there is sufficient material on record to indict the

Applicant in the present crime. In view thereof we are not inclined to grant bail to the Applicant.

- 5) Application is accordingly dismissed.
- 6) List the Appeal on the final hearing board as per its turn, as soon as the Record and Proceedings along with papers are received.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)