

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

**INTERIM APPLICATION NO.4692 OF 2023
IN
CRIMINAL APPEAL NO.1407 OF 2023**

Vikas Shankar Chavan ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Anil Jaising Jadhav i/by Rahul Arote, for the Applicant.
Mrs. M. R. Tidke, APP for the Respondent/State.
Mr. A. A. Jadhavar, for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 18th MARCH, 2024

PC.

1. This Application is preferred seeking suspension of sentence and release of the Applicant on bail. The Applicant is convicted for the offence under Section 354(A) of IPC and Sections 9 and 10 of POCSO Act. The maximum punishment awarded is of five years rigorous imprisonment for the offence under Section 9 and 10 of POCSO Act and to pay fine of Rs.10,000/- and in default of payment of fine to suffer simple imprisonment of 100 days. For the offence under Section 342 of IPC, Applicant is directed to suffer rigorous imprisonment for six months. For the offence under Section 506(2) of IPC, he is directed to suffer rigorous imprisonment for three years.

2. It is the case of the prosecution that the Applicant, working as watchman has committed the offence. From the deposition of one of the victims, it is seen that the one of victim girl has unfortunately died because of the shock and trauma of the incident within six months after the incident. It is stated that on 22.08.2018 when the girls went to the school, this Applicant who was working as watchman caught hold of girls, gagged their mouths and took them to the watchman cabin and closed the gate of the cabin from inside and showed them obscene and vulgar videos and thereafter committed offence as alleged. Both the girls were less than twelve years of age and therefore, Applicant was tried for the offence under Section 9 of POCSO Act.

3. Learned advocate for the Applicant submits that there is no evidence to show that the victim girls ever tried to raise shouts or called for help. The place where incident took place is in the school and therefore it is not possible for anyone to commit such an act in the school premises. Learned advocate further submits that sentence is only short sentence of five years and Applicant deserves to be released on bail.

4. Learned APP and learned advocate for the Respondent No.2 points out that one of the victim girl even died due to shock and trauma after the incident within six months. The Applicant was working as watchman in the school where the girls were studying. He has committed serious offence with two victims, therefore,

accused does not deserve any sympathy.

5. Considering the case and evidence on record, this Court finds that the Applicant is held guilty for the heinous crime. Both the victim girls were minor below the age of twelve years when the alleged incident took place. Merely because the sentence is short sentence is not reason to grant bail by suspending sentence. This Court is not inclined to allow the Application.

6. The Application therefore stands dismissed.

7. Hearing of the Appeal is expedited.

[KISHORE C. SANT, J.]