

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

**INTERIM APPLICATION NO. 193 OF 2024
IN
CRIMINAL APPEAL NO. 42 OF 2024**

Mayur Prabhakar Kirve	..Applicant.
Versus	
The State of Maharashtra & Anr.	..Respondents

Ms. Anjali Patil for Applicant.
Ms. Ranjana D. Humane, APP for State/Respondent.
Ms. Vidhya Shet (Appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.
DATE : 3 JULY 2024

PC :

1. This is an application for bail pending Appeal. The applicant was the accused in POCSO Special Case No.273 of 2016 before the Special Judge under POCSO Act, Mumbai. The learned Judge vide the Judgment and order dated 20.12.2023 convicted the applicant for commission of offence punishable under section 10 of the Protection of Children from Sexual Offences Act (hereinafter referred to as 'POCSO Act'). He was sentenced to suffer R.I. for 5 years and to pay a fine of Rs.5000/- and in default to suffer S.I. for one month. The applicant was also convicted

under sections 354 and 354-A of the I.P.C., but no separate sentence was imposed.

2. The prosecution case is that the applicant was the son of the victim's family's landlord. The incident occurred on 07.02.2016. It is alleged that the applicant took the victim who was 8 years of age in his room. He removed his own clothes and clothes of the victim and tried to commit physical sexual act. However, in the meantime, somebody knocked on the door and, therefore, the victim could run away. On this basis the F.I.R. was lodged. The applicant was tried and convicted.

3. Learned counsel for the applicant submitted that the applicant was on bail during trial. As of today, he has spent 9 months in custody out of the sentence of 5 years; including the period during investigation when he was arrested. The Appeal is not likely to be decided within a reasonable period before the balance sentence get over. Apart from these submissions, learned counsel submitted that the incident occurred on 07.02.2016 and the F.I.R. was lodged on 18.02.2016. The delay has remained

unexplained. She further submitted that the victim's family did not want to vacate the premises and, therefore, they lodged this false case against the applicant to pressurise his family.

4. Learned counsel for the Respondent No.2, as well as, the learned APP opposed these submissions. They submitted that, considering the relationship between the parties, the delay in this case would not matter. They submitted that the offence is serious and, therefore, bail may not be granted to him. The evidence is consistent.

5. I have considered these submissions. The defence of the applicant and the reason for his false implication, as well as, delay in lodging the F.I.R. will have to be considered at the stage of final hearing. The applicant was in custody for 9 months including the period as an accused during investigation. The sentence imposed on him is for 5 years. The Appeal is not likely to be decided within the balance period of his sentence. Therefore, the applicant deserves to be released on bail on that ground during pendency of his Appeal.

6. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.42 of 2024, 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 Applicant shall not harass the victim and her family.
- iii) Fine shall be deposited before being released, if it is not already deposited.
- iv) The Application is disposed of.

(SARANG V. KOTWAL, J.)