

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

**INTERIM APPLICATION NO. 842 OF 2024
IN
CRIMINAL APPEAL NO. 181 OF 2024**

Rakesh Prakash Dighe

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Paras Yadav for Appellant.

Ms. Sangita D. Shinde, APP for State/Respondent.

Mr. Arvind D. Aswani, appointed Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 11 JUNE 2024

PC :

1. The Applicant was convicted by the Additional Sessions Judge, Vadgaon Maval, Pune, vide his Judgment and order dated 19.01.2024 in Special Case No.27 of 2022, under section 376 of the I.P.C. and under section 4 of the Protection of Children from Sexual Offences Act (for short 'POCSO Act'). The applicant was sentenced to suffer R.I. for 10 years and to pay a fine of Rs.5000/- and in default of payment of fine to suffer further R.I. for six months. He was also convicted U/s.7 r/w. Section 8 of the POCSO

Act and was sentenced to suffer R.I. for 3 years and to pay a fine of Rs.5000/- and in default of payment of fine to suffer further R.I. for six months. He was convicted U/s.11 r/w. S.12 of the POCSO Act and was sentenced to suffer R.I. for 3 years. He was acquitted U/s.3(1)(xii) of The Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

2. The present application is for his release during pendency of appeal which is already admitted.

3. Heard Mr. Paras Yadav, learned counsel for the applicant, Smt. Sangita Shinde, learned APP for the State and Mr. Arvind Aswani, learned counsel for the Respondent No.2.

4. The prosecution case is that the victim's date of birth was 02.08.1999. The incident took place on 16.07.2015 between 11:00p.m. to 3:00p.m. The applicant was knowing the victim. He forcibly pulled the victim inside his house and committed rape on her. He had taken photographs of the victim in his mobile phone and he threatened her that he would show those photographs to others. The victim did not inform this incident to anybody

immediately out of fear, but on 17.07.2015 she approached the police and lodged her F.I.R.

5. Learned counsel for the applicant submitted that, there is discrepancy in the victim's deposition. The incident as described by her was not possible. He further submitted that the applicant is falsely implicated. He was on bail during trial. The applicant is in custody for about three and half years.

6. Learned APP submitted that, during trial, though the applicant was granted bail, he did not remain present before the Court and, therefore, on two occasions N.B.Ws. were issued against him. Thereafter he was arrested. Therefore, there is strong likelihood of the applicant's absconding instead of pursuing this appeal if he is released on bail.

7. Learned counsel for the Respondent No.2, as well as, learned APP relied on the evidence of the victim who is examined as PW-1, as well as, evidence of PW-3 Doctor who had conducted medical examination.

8. I have considered these submissions. The victim had

described the incident in detail and has clearly described the offence committed by the applicant. She is supported by medical evidence. PW-3 has stated that the victim was examined on 18.07.2015. At that time, she found that there was hymenal tear and there was bleeding. She had given clear opinion that there was penetrative sexual intercourse. Considering these aspects, at this stage, there is sufficient evidence shown against the present applicant. Therefore, no case for grant of bail pending appeal is made out. Learned APP's submission that, the applicant had absconded and on two occasions N.B.Ws. were required to be issued against him, is also an important aspect. No case for grant of bail pending appeal is made out.

9. The Application is rejected.

(SARANG V. KOTWAL, J.)