

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

**INTERIM APPLICATION NO. 848 OF 2024
IN
CRIMINAL APPEAL NO. 340 OF 2024**

Aman Kabul Singh

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Premkumar Mishra (appeared through V.C.) a/w. Ms. Varuna S. Gade for Applicant.

Smt. M. R. Tidke, APP for State/Respondent.

Mr. Ajay Talreja (appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 30 SEPTEMBER 2024

PC :

1. This is an application for bail pending Appeal. The Applicant was the accused in Special Case No.137 of 2022 before the Additional Sessions Judge, Vadgaon, Dist. Pune. The learned Judge, vide the Judgment and order dated 29.11.2022 convicted the applicant for commission of offences punishable under sections 363, 376(2)(n) and 506 of the I.P.C. and for the offence under section 3 punishable U/s.4 and for offence U/s.5(l) punishable U/s.6 of the Protection of Children from Sexual Offences Act. The

major sentence imposed on the applicant was R.I. for 10 years.

2. The prosecution case is that the victim was knowing the applicant. Her date of birth was 20.06.2006. On 11.01.2019, the applicant offered the victim to drop her to her house on his two wheeler. But instead of taking her to her house, he took her to a vacant room. He kept her there throughout the night and committed repeated penetrative sexual assault. In the meantime, the victim's father was searching for her and lodged a complaint U/s.363 of the I.P.C. at Dehu Road police station vide the C.R.No.35 of 2019 about the victim missing from the house. On the next day, the victim came home and narrated the incident. After that, the applicant was arrested, the investigation was carried out and the applicant faced the trial.

3. Learned counsel for the applicant submitted that the victim had given the medical history to the Medical officer wherein she had mentioned that there was no sexual assault. He further submitted that the applicant had examined a defence witness who mentions that the applicant was staying with his brother from

12.01.2019 to 15.01.2019. He submitted that the story is not true. The applicant is falsely implicated because of some quarrel between the applicant's brother and others.

4. Learned counsel for the Respondent No.2, as well as, learned APP, on the other hand, submitted that the defence witness's evidence itself shows that the applicant himself was missing on 11.01.2019 which was the date of incident. They submitted that the medical evidence, in fact, support the prosecution case. There is no dispute about the victim's date of birth. She was around 12 years and six months of age at the time of incident.

5. I have considered these submissions. The victim is examined as PW-5. She had narrated the incident in consonance with the prosecution case. She has stated that the applicant committed rape on her and threatened her. On the next day, she came home and informed her parents about the incident and then the F.I.R. was lodged. Her deposition is corroborated by her statement recorded U/s.164 of the Cr.p.c.; which was recorded on

12.02.2019. The Medical Officer PW-4 had examined her. Her categorical opinion was that, there was evidence of vaginal penetration with no evidence of any external injuries. The defence witness examined by the applicant himself has stated in paragraph-4 of his deposition that on 11.01.2019 the victim and the applicant were missing. This is also an incriminating circumstance against the applicant. Thus, there are sufficiently strong incriminating circumstances against the applicant. The offence is very serious. Therefore, I am not inclined to grant bail pending Appeal to the applicant.

6. The application is rejected. However, since the applicant is in jail for more than five years, the Appeal itself can be decided expeditiously. Hearing of the Appeal is expedited.

(SARANG V. KOTWAL, J.)