

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

***INTERIM APPLICATION NO. 1093 OF 2024
(For Bail & Suspension of Sentence)
IN
CRIMINAL APPEAL NO.290 OF 2024***

Dudhnath Singar Bharadwaj ... Applicant

Versus

The State of Maharashtra & Anr. ... Respondents

Mr. Tushar Sonawane a/w Ms. Pooja Satpute for the
Applicant/Appellant

Mrs. Kranti T. Hiwrale, A.P.P for the Respondent No.1-State

Ms.Devyani Kulkarni, Appointed Advocate for the Respondent
No. 2

**CORAM : REVATI MOHITE DERE &
PRITHVIRAJ K. CHAVAN, JJ.
TUESDAY, 30th JULY 2024**

P.C :

1 Heard learned counsel for the parties.

2 By this interim application, the applicant seeks
suspension of his sentence and enlargement on bail, pending the
hearing and final disposal of his aforesaid appeal.

3 The applicant vide judgment and order dated 9th February 2024 passed by the learned Special Judge (POCSO), Pune in Special POCSO Sessions Case No. 269/2018 has been convicted for the offences punishable under Sections 376(2)(f)(n)(i) and 506 of the Indian Penal Code (`IPC') and under Section 6 r/w 5(l)(m)(n) of the Protection of Children from Sexual Offences Act (`POCSO'). For the offence punishable under Section 376(2)(f)(n)(i) of the IPC, the applicant has been sentenced to suffer imprisonment for life and to pay a fine of Rs. 2,000/-, in default, to suffer further simple imprisonment for 15 days. Separate sentence has also been awarded for the offence punishable under Section 506 of the IPC. The said sentences are directed to run concurrently.

4 Learned counsel for the applicant submitted that the applicant has been falsely implicated in the said case by his daughter (prosecutrix), as he had opposed the relationship of the prosecutrix with one Pappu Yadav. He submitted that no such

incident as alleged by the prosecutrix had taken place. He further submitted that the applicant is in custody since 2018 for about 6 years and as such, the applicant be released on bail.

5 Learned A.P.P as well as learned counsel for the respondent No. 2 vehemently opposed the application. They submitted that the evidence of the prosecutrix, coupled with the testimony of PW1-Arunadevi Bhosale as well as the medical evidence, clearly points to the complicity of the applicant in the crime.

6 Perused the papers, in particular, the evidence of PW3 i.e. the prosecutrix. The prosecutrix was aged about 11 years and 10 months at the time when she was ravished by the applicant and 15 years when she deposed. She has categorically in para 2 of her evidence stated how in the night of 1st April 2018, the applicant sexually assaulted her and also threatened her of dire consequences, if she disclosed the same to any person. The

prosecutrix has denied in her cross-examination that she was falsely implicating the applicant (her father), as he had opposed to the relationship with one Pappu Yadav, who was staying with the family for some time. The evidence of PW3 is duly corroborated by the medical evidence and the history given by the prosecutrix to the doctor. The history given to the doctor is on similar lines as deposed to by the prosecutrix. The aforesaid evidence is further corroborated by the evidence of PW1-Arunadevi Bhosale, a school teacher to whom the prosecutrix had disclosed about the sexual assault on her by the applicant. It is also pertinent to note that PW4-Dr. Shailesh Khadtare has categorically in para 3 opined that the prosecutrix was sexually assaulted.

7 Considering that the applicant had sexually assaulted his daughter, who was about 12 years of age and having regard to the evidence on record, we do not think that this is a fit case to enlarge the applicant on bail.

8 Application is rejected. However, as soon as the paper-book is ready, the appeal be added at its appropriate place on the final hearing board.

PRITHVIRAJ K. CHAVAN, J.

REVATI MOHITE DERE, J.