

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

**INTERIM APPLICATION NO. 1232 OF 2024
IN
CRIMINAL APPEAL NO. 1314 OF 2023**

Maresh Rajkishore Rajor ..Applicant
Versus
State of Maharashtra & Anr. ..Respondents

Ms. Vaishali Sawant i/b. Kalam Shaikh for Applicant.
Mr. Vithal B. Konde-Deshmukh for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 27 JUNE 2024**

PC :

1. This is an application for bail pending final disposal of applicant's Appeal No.1314 of 2023. The Applicant has challenged the Judgment and order dated 27.03.2023 passed by the Additional Sessions Judge, Thane, in Sessions Case No.69 of 2020. The applicant was convicted for commission of offence punishable U/s.376 of the I.P.C. and was sentenced to suffer R.I. for 10 years and to pay a fine of Rs.5000/- and in default to suffer S.I. for three months. He was convicted U/s.354 of the I.P.C. and was sentenced to suffer R.I. for two years and to pay a fine of Rs.1000/- and in

default to suffer S.I. for one month. The substantive sentences were directed to run concurrently.

2. Learned counsel for the applicant submitted that the applicant is arrested on 03.12.2019 and since then he is continuously in custody. More than four and half years have passed out of the sentence of 10 years. She emphasized the fact that the prosecutrix in this case had turned hostile and had not supported the prosecution case. There is no substantive evidence in support of the alleged offence.

3. Learned APP, on the other hand, submitted that the learned Trial Judge has rightly relied on the proved contradictions from her police statement, as well as, the medical evidence of the doctor, which shows that such offence was committed.

4. I have considered these submissions. The important witness in this case is the prosecutrix herself. She has turned hostile. She has not deposed against the present applicant. This is an important circumstance in favour of the present applicant. The prosecution case is that, in the month of October 2019 on two occasions, the applicant had committed rape on the prosecutrix-

PW-1, however, since PW-1 has not supported these allegations, this circumstance is strongly in favour of the present applicant for consideration of bail. He is already in custody for more than 4 and half years. There is evidence of medical officer-PW-6. Her evidence shows that there was evidence of penetrative vaginal intercourse. However, that by itself does not indicate complicity of the applicant, in view of the deposition of PW-1.

5. Considering the quality of the evidence against the applicant and also considering his detention in jail since 03.12.2019, the applicant deserves to be released on bail.

6. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.1314 of 2023, 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 Application is disposed of.

(SARANG V. KOTWAL, J.)