

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

**INTERIM APPLICATION NO. 1519 OF 2024
WITH
INTERIM APPLICATION NO. 1520 OF 2024
IN
CRIMINAL APPEAL NO. 380 OF 2024**

Sharad Baban Hande

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Santosh G. Shirsat for Applicant in both IAs.

Mr. Shrikant H. Yadav, APP for State/Respondent.

Mr. Amit A. Mane, (appointed Advocate) for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 24 JULY 2024

PC :

1. The Applicant was the accused in POCSO Special Case No.84 of 2018 before the Special Judge under POCSO, Greater Mumbai. Vide the Judgment and order dated 22.03.2024, the applicant was convicted for commission of the offences punishable under Section 354(A) of the I.P.C. and U/s.10 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). The major sentence imposed on him was S.I. for five years and to pay a fine of Rs.5000/- and in default to suffer S.I. for one month,

for the offence punishable U/s.10 of the POCSO Act. No separate sentence was imposed for the offence U/s.354(A) of the I.P.C.

2. The prosecution case is that the victim who was around 13 years of age, had accompanied her mother on 19.10.2017 to Mulund Hospital. The victim's mother was not feeling well. It is her case that the applicant was a police constable and he was present in the cabin meant for the police. At about 2:30a.m. her mother went to the washroom. At that point of time, allegedly, the applicant touched the victim inappropriately. This was repeated at about 4:45a.m.. The Applicant had threatened her. When the victim and her mother were coming out of the hospital, at that time, the victim started crying and told about the incident to her mother. Thereafter the F.I.R. was lodged and the investigation was carried out. The applicant faced the trial.

3. Learned counsel for the applicant submitted that the sentence imposed on the applicant is for five years; out of which, he is in custody for almost six months. The sentence is short. The applicant was on bail during trial. He has not misused that liberty.

The applicant has now retired from the police service. The incident itself is unbelievable. It was not possible to commit that offence in the crowded place like hospital. Learned counsel further submitted that the evidence shows that the victim's mother had lodged two more complaints against another person for the similar offence U/s.354 of the I.P.C. He further submitted that, when the applicant was arrested, his phone was handed over to his son-in-law. The victim's mother had called on that phone on a number of occasions demanding Rs.5 lakhs. The conversation was recorded and it was copied on a pen-drive. It was heard in the presence of the Registrar of the Sessions Court and its transcript was produced. All this shows that the applicant was falsely implicated.

4. Learned counsel for the Respondent No.2, as well as, the learned APP opposed these submissions. They submitted that the applicant was police constable. The incident occurred at the odd hours and, therefore, there was a possibility that others might not have noticed the incident. The offence is serious.

5. I have considered these submissions. The sentence

imposed on the applicant is short. Out of the five years, he has already spent six months in the custody. The Appeal is not likely to be decided during short period. Even otherwise, on merits the learned counsel for the applicant has raised important questions which require serious consideration at the final hearing stage. In this view of the matter, I am inclined to grant bail to the applicant pending his Appeal.

6. Hence, the following order:

O R D E R

- i) During pendency and final disposal of Criminal Appeal No.380 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) Both the Applications are disposed of.

(SARANG V. KOTWAL, J.)