

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

**INTERIM APPLICATION NO. 1532 OF 2024
IN
CRIMINAL APPEAL NO. 383 OF 2024**

Kevin Satish Mhatre	..Applicant
Versus	
The State of Maharashtra & Anr.	..Respondents

Mr. Gaurav Parkar for Applicant.

Mr. Swapnil V. Walve, APP for State/Respondent.

Mr. Shailesh Kharat (appointed Advocate) for Respondent No.3.

**CORAM : SARANG V. KOTWAL, J.
DATE : 4 SEPTEMBER 2024**

PC :

1. The Applicant was the original accused in Special POCSO Case No. 8 of 2022 before the learned Special Judge, Raigad, Alibag. The learned Trial Judge, vide his Judgment and order dated 21.03.2024 convicted the applicant for commission of offences punishable under sections 354 and 354(A)(i) of the I.P.C. and under sections 7 r/w. 8 and U/s.11 r/w. 12 of the Protection of Children from Sexual Offences Act, 2012. Major sentence imposed on him was R.I. for three years, besides imposition of fine.

2. Learned counsel for the applicant submitted that, there is no proper identification of the applicant. The offence was allegedly committed by an unknown person. There were two victims involved in this offence. Both of them were examined during trial. Their evidence regarding the identification of the offender is extremely doubtful. He submitted that, while the applicant was on bail, he has not committed any offence. Even after his conviction, the applicant is granted bail U/s.389 of the Cr.p.c. The sentence is short and the Appeal is not likely to be decided within that period.

3. Learned APP, as well as, learned counsel for the Respondent No.3 opposed these submissions. Learned appointed counsel for the Respondent No.2 is not present. However, the learned counsel Shri. Kharat was asked to assist the Court for the Respondent No.2 also.

4. I have heard the parties. There were two incidents; one was dated 22.12.2021 and other was dated 18.01.2022. PW-1 was concerned with the incident dated 18.01.2022. It is alleged that,

on that day, one unknown boy came on his cycle and showed his private parts to PW-1 and her friends. However, PW-1 in her deposition and in her cross-examination has categorically stated that she had no complaints against the applicant present in the Trial Court, and that on 18.01.2022 the applicant was not present at the spot.

5. The other incident is dated 22.12.2021 when the applicant allegedly had committed similar act with PW-2. She identified the applicant in the trial Court during her deposition. However, in her cross-examination she admitted that after filing of the F.I.R. the applicant was brought to the police station by the police and that she and others had seen the applicant at the police station. Therefore, this admission makes the identification of the applicant extremely doubtful. The sentence imposed is short. The Appeal is not likely to be decided during that period. The applicant was on bail during trial and he has not misused that liberty. Therefore, 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.383 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) The Application is disposed of.

(SARANG V. KOTWAL, J.)