

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

**INTERIM APPLICATION NO.1924 OF 2024
IN
CRIMINAL APPEAL NO.478 OF 2024**

Nilesh Bhagoji Varak @ Dudh Applicant

versus

The State of Maharashtra & Anr. Respondents

.....

- Mr. Rajas Naik, Advocate for Applicant.
- Smt. Sangita D. Shinde, APP for the State/Respondent.
- Mr. Drupad Patil, appointed advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 22nd JULY, 2024**

P.C. :

1. This is an application for bail pending Appeal. The Applicant was the accused before the Special Judge under POCSO, Greater Mumbai, in POCSO Special Case No.361 of 2019. The learned Judge vide his Judgment and Order dated 21/08/2023 convicted and sentenced the Applicant as follows :

- (i) The Applicant was convicted for commission of offence punishable u/s 354 of the Indian Penal

Code. The Applicant was sentenced to suffer rigorous imprisonment for 1 year and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment of 3 months.

- (ii) He was further convicted for commission of offence punishable u/s 354(a) of the Indian Penal Code and was directed to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment of 3 months.
- (iii) He was also convicted for commission of offence punishable u/s 323 of the Indian Penal Code and was directed to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment of 3 months.
- (iv) He was also convicted for commission of offence punishable u/s 504 of the Indian Penal Code and was directed to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment of 3 months.
- (v) He was also convicted for commission of offence punishable u/s 12 of the Protection of Children from Sexual Offences Act, 2012 and was sentenced to suffer rigorous imprisonment for 1

year and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment of 3 months.

2. Heard Mr. Rajas Naik, learned counsel for the Applicant, Mr. Drupad Patil, learned counsel for the Respondent No.2 and Smt. Sangita D. Shinde, learned APP for the State.
3. The prosecution case is that the victim in this case was 14 years of age at the time of incident. On 18/04/2019, the Applicant stopped her while she was going to tuition class. He was under the influence of liquor. He gave abuses in filthy language. When she complained to her mother, her mother questioned the Applicant. At that time, the Applicant abused the victim's mother and victim's sister. He also assaulted the victim's sister. These are the allegations against the Applicant.
4. Learned counsel for the Applicant submitted that out of the sentence of 12 months, the Applicant is already in custody for about 11 months. The Appeal is not likely to be decided within one month. He submitted that there are no further

allegations against him. Even after his conviction he was granted bail u/s 389 of Cr.P.C.

5. Learned counsel for the Respondent No.2 as well as learned APP submitted that though the balance sentence is not more, there has to be check on his activities, because there is reasonable apprehension that the Applicant may continue to act in that manner.

6. I have considered these submissions. Out of 12 months, he was in custody for 11 months. During balance period of one month, it is not possible to decide the Appeal. The Applicant deserves to be released on bail during pendency of the Appeal. However, considering the nature of allegations against him, some conditions will have to be imposed on him to ensure safety of the victim and her family.

7. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.478 of 2024, the Applicant

is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only), with one or two sureties in the like amount.

- (ii) The Applicant shall attend the concerned police station once a fortnight for a period of 9 months from today.
- (iii) The Applicant shall not harass the victim or her family.
- (iv) The application is disposed of.

(SARANG V. KOTWAL, J.)