

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

**INTERIM APPLICATION NO.2057 OF 2024
IN
CRIMINAL APPEAL NO.527 OF 2024**

Suresh Hindurao Kamble Applicant
versus
State of Maharashtra & Anr. Respondents

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- Mr. Jyotiram S. Yadav, Advocate for Applicant.
- Smt. Sangita D. Shinde, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 13th AUGUST, 2024

P.C. :

1. This is an application for bail pending Appeal. Learned APP on instructions states that the notice is served on the Respondent No.2. She had informed the Investigating Officer that she was engaging a private counsel. In the afternoon session also nobody appeared for her. When the matter was called out in the morning, nobody had appeared. Therefore, since this is an application for bail, I have heard the learned counsel for the Applicant.

2. The Applicant was the sole accused before the Special Judge, Kolhapur, in Special Case No.192 of 2021. The learned

Judge vide his Judgment and Order dated 16/04/2024 convicted the Applicant for commission of offence punishable u/s 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced him to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment for six months. He was convicted for commission of offence punishable u/s 12 of the POCSO Act. The operative part of the impugned Judgment and Order itself shows that the Applicant has undergone 11 months and 25 days in custody during the investigation and trial. Thus, out of three years, hardly two years of sentence is left.

3. Heard Mr. Jyotiram S. Yadav, learned counsel for the Applicant and Smt. Sangita D. Shinde, learned APP for the State.
4. Learned counsel for the Applicant submitted that the Applicant has undergone 11 months and 25 days in custody. Since the Appeal is not likely to be decided during the remaining period, he deserves to be released on bail.

5. The incident is dated 17/08/2021. The victim was 14 years old. On the date of incident, at about 02.30 p.m. her mother was washing utensils in the backyard of the house. The victim was inside the house. The Applicant came inside the house, sat on the Sofa and touched the victim inappropriately which would fall within the meaning of section 7 r/w 8 of the POCSO Act. After that, he left the house. Both the families i.e. the family of the Applicant and that of the victim, were knowing each other. The victim disclosed the incident to her mother. Then the FIR was lodged and the investigation was carried out.

6. Learned counsel for the Applicant submitted that on merits, he has a good case. There was no reason for the Applicant to have committed this offence. He is falsely implicated because of the dispute between the two families. The prosecution case is that after committing this offence, the Applicant again came to the victim's house. According to the learned counsel for the Applicant, this was not possible and the incident is false.

7. All these questions will have to be decided at the final hearing stage of the Appeal. However, the Applicant has already undergone at least 1/3rd of the sentence. The Appeal is not likely to be decided during the remaining period. Therefore, the Applicant can be granted bail pending the Appeal.

8. Hence, the following order :

ORDER

- (i) During the pendency and final disposal of the Criminal Appeal No.527 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 not cause any harassment to the victim or her family.
- (iii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)