

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

**INTERIM APPLICATION NO.2167 OF 2024
IN
CRIMINAL APPEAL NO.574 OF 2024**

Adam Mahiboob Shaikh Applicant

versus

The State of Maharashtra & Anr. Respondents

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- Mr. Rupesh A. Zade a/w Priyanka Gupta, Advocate for Applicant.
- Mr. Swapnil V. Walve, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.
DATE : 10th JULY, 2024

P.C. :

1. This is an application for bail pending final disposal of the Appeal preferred by the Applicant. The Applicant was convicted and sentenced by the Special Judge, Baramati, vide his Judgment and Order dated 11/03/2024 passed in Sessions Case No.61/2018. The Applicant was convicted for commission of offence punishable u/s 4 of the Protection of Children from Sexual Offences Act, 2012 and u/s 376(2)(i) of the Indian Penal

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Code. The major sentence imposed on him was rigorous imprisonment for 12 years and to pay a fine of Rs.10,000/- and in default of payment of fine to suffer rigorous imprisonment for two months in connection with the offence punishable u/s 376(2)(i) of the Indian Penal Code.

2. Heard Mr. Rupesh A. Zade, learned counsel for the Applicant and Mr. Swapnil V. Walve, learned APP for the State.
3. The prosecution case is that the victim was 14 years of age at the time of incident dated 04/02/2018. On that day, the victim was walking on a road. The Applicant came near her and told her that he would drop her to her aunt's place. One boy of 8 years also requested the Applicant to drop him on the road. The Applicant took both of them on his motorcycle. He left the boy near a brick kiln. But he took the victim ahead. He did not stop on the road, but took her to an agricultural field and committed rape on her against her wish. The date of birth of the victim was 29/05/2004. Therefore, the offence punishable under POCSO

was also committed. The investigation was carried out and the Applicant faced the trial.

4. Learned counsel for the Applicant submitted that the boy who was given a ride at the same time before the victim was taken ahead, is not examined. He was an important witness. The case of the victim is that on the way, they had purchased potato chips. But that shop owner was not examined. They were important witnesses and therefore, bail should be granted to the Applicant. He was on bail during trial.

5. Learned APP opposed these submissions based on the evidence of the victim.

6. I have considered these submissions. The victim has not deposed that they had purchased potato chips. The boy of 8 years, who was dropped, also was not an important witness at all. The main question is about rape, for which that boy was not an important witness. The important witness in this case is P.W.8

Dr. Sangeeta Jagtap, who had medically examined the victim on 05/02/2018. She had corroborated the victim's evidence. There were injuries below the left eye and on the chin of the victim. It was the victim's case that she struggled with the Applicant and at that time these injuries have caused. P.W.8 has further stated that as per her opinion there was sexual assault upon the victim. The shop keeper from whom allegedly potato chips were purchased, was not an important witness at all.

7. Considering all these aspects and considering the strong evidence available against the Applicant on record, no case for grant of bail is made out.

8. The application is rejected.

(SARANG V. KOTWAL, J.)