

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

**INTERIM APPLICATION NO.2443 OF 2024  
IN  
CRIMINAL APPEAL NO.647 OF 2024**

Rohit Suresh Jadhav

.... Applicant

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Ms. Shraddha Vahal, Advocate for Applicant.
- Smt. Manisha R. Tidke, APP for the State/Respondent.
- Ms. Priyanka Chavan, appointed advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.**

**DATE : 12<sup>th</sup> AUGUST, 2024**

**P.C. :**

1. The Applicant was the sole accused before the Special Judge, Raigad-Alibag, in Special (POCSO) Case No.46/2023. The learned Judge vide his Judgment and Order dated 17/05/2024 convicted the Applicant u/s 7 r/w 8, 11 r/w 12 of the Protection of Children from Sexual Offences Act (POCSO), 2012 and u/s 354 of the Indian Penal Code. He was sentenced to suffer rigorous imprisonment for one year and to pay a fine of

Rs.5,000/- and in default of payment of fine to suffer further rigorous imprisonment for one month. In view of section 42 of POCSO Act, no separate punishment was awarded for the offence punishable u/s 12 of the POCSO Act.

2. Heard Ms. Shraddha Vahal, learned counsel for the Applicant, Ms. Priyanka Chavan, learned counsel for the Respondent No.2 and Smt. Manisha R. Tidke, learned APP for the State.

3. The case of the prosecution is that the victim PW.2 was studying in 10<sup>th</sup> standard. She was 14 years of age. In January 2022, the accused proposed his love for the victim. She accepted it. Their friendship turned into love relationship. It is alleged that her family was against their relationship. On 10/07/2023, on the Applicant's birth day, he committed acts which would fall within the definition described u/s 7 of POCSO. The Applicant gifted her a mobile phone. Her family found it and returned it to the Applicant. On 17/10/2023, the victim went with the Applicant towards the hills. The victim's friend saw that and

informed the family. After that, this FIR was lodged and the Applicant was prosecuted.

4. Learned counsel for the Applicant submitted that the maximum sentence imposed is for one year and the Appeal is not likely to be decided within that period. The Applicant was admittedly in relationship with the victim and therefore some leniency be shown to him.
5. Learned counsel for the Respondent No.2 pointed out that the minimum sentence u/s 8 is three years and the sentence of one year is not permissible in law. Learned APP supported that contention.
6. I have considered these submissions. Considering this background, the minimum sentence of three years is prescribed. However, the learned Judge committed an error in imposing the sentence of one year. The Appeal is not likely to be decided within a period of one year or even three years. Therefore, the Applicant can be granted bail pending his Appeal. However, considering the submissions made by the learned counsel for the

Respondent No.2, if it is proved that the Applicant has committed the offence u/s 8 of POCSO, the minimum sentence of three years will have to be imposed.

7. Hence, the following order :

**ORDER**

- (i) During the pendency and final disposal of the Criminal Appeal No.647 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) Issue notice for enhancement of sentence to the Applicant.
- (iv) The application is disposed of.

**(SARANG V. KOTWAL, J.)**