

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

**INTERIM APPLICATION NO.2513 OF 2024
IN
CRIMINAL APPEAL NO.665 OF 2024**

Mukesh Nagina Chaudhari Applicant

versus

State of Maharashtra & Anr. Respondents

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- Mr. Anil Y. Bansode a/w Tanoj Joshi a/w Shivani Gautam,
Advocate for Applicant.
- Smt. Sangita D. Shinde, APP for the State/Respondent.
- Mr. Rishi Bhatt, appointed advocate a/w Mr. Sameer Khedekar,
Advocate for Respondent No.2.

**CORAM : SARANG V. KOTWAL, J.
DATE : 30th SEPTEMBER, 2024**

P.C. :

1. This is an application for bail pending Appeal. The Applicant was convicted for commission of offence punishable u/s 7 r/w 8 and 11(i) r/w 12 of the Protection of Children from Sexual Offences Act, 2012 and 354 of the Indian Penal Code. The major sentence imposed on the Applicant was for 3 years besides imposition of fine.

2. Heard Mr. Anil Y. Bansode, learned counsel for the Applicant, Mr. Rishi Bhatt, 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 10 years of age on 02/09/2017, which was the date of incident. Her date of birth was 27/09/2007. It is her case that the Applicant was having a shop in the victim's area. He called her inside the shop and gave her Rs.20/-. He touched her private parts. She ran away from there and disclosed this incident to her mother. Then this FIR was lodged and the investigation was carried out.
4. The Applicant faced the trial before the Special Judge under POCSO, Greater Bombay, in Special Case No.528 of 2017. He was convicted and sentenced vide the Judgment and Order dated 29/04/2024.

5. The learned counsel for the Applicant submitted that during the investigation and trial he was in custody for more than 5 months. He is falsely implicated. He was on bail during trial. Even after his conviction he was granted bail by the Trial Court. He submitted that the Applicant had examined himself as defence witness. He has deposed that the victim had scattered some articles in his shop and therefore he had scolded her. The victim's father assaulted him causing an injury and to prevent the Applicant from lodging FIR, this false case under POCSO was registered against him. Learned counsel submitted that the sentence imposed him is short and therefore the Applicant deserves to be released on bail.

6. Learned APP as well as learned counsel for the Respondent No.2 opposed this application. But they could not counter that the sentence imposed is short.

7. I have considered these submissions. The issues raised by the Appellant/Applicant will have to be decided at the final

hearing stage. The sentence imposed is only for three years, out of which he was in custody for more than 5 months. The Appeal is not likely to be decided during the remaining period. The Applicant was on bail during trial. There are no allegations of misuse of that liberty. Hence the Applicant deserves to be released on bail during pendency of his Appeal.

8. Hence, the following order :

ORDER

- (i) During the pendency and final disposal of the Criminal Appeal No.665 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) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)