

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

**INTERIM APPLICATION NO.3172 OF 2024
IN
CRIMINAL APPEAL NO.862 OF 2024**

Dilip Ishwar Shirgire
Versus
State of Maharashtra
and another

.....Applicant

.... Respondents

Mr. Sachin Deokar, Advocate a/w. Vignesh Ashokan for the Applicant.

Mr. Shrikant H. Yadav, APP for the Respondent No.1-State.

Mr. Arjun V. Lingalod, Advocate (appointed Legal Aid) for the Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATE : 30th SEPTEMBER, 2024

P.C. :

1. Leave to amend to correct the cause title.
Amendment to be carried out forthwith.

2. The Applicant was convicted for the offences punishable under Sections 452, 354(A)(i)(ii) of IPC, under Section 8 of the POCSO Act and under Sections 3(1)(w)(i) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989. The major sentence imposed on the

Applicant was SI for three years besides imposition of fine amount.

3. Heard Mr. Sachin Deokar, learned counsel for the Applicant, Mr. Shrikant Yadav, learned APP for the Respondent No.1-State and Mr. Arjun Lingalod, learned appointed counsel for the Respondent No.2.

4. The prosecution case is that the victim was 16 years of age at the time of incident dated 8.10.2016. Her date of birth was 7.6.2000. She belonged to a Scheduled Caste. The Applicant did not belong to a S.C. or S.T.. On that day, at around 3.30 p.m., she was in her house. She was studying. The Applicant entered the house and held her hand. The victim slapped his hand. She ran outside. After some time the Applicant came out and sat at some distance and kept looking at her. After some time, he went away. When her parents came back, she complained about the Applicant. After that this FIR is lodged. The main witnesses in this case were the victim, her father and the in-charge Head Master of the school where the victim was studying.

5. Learned counsel for the Applicant submitted that the narration in the deposition of the victim shows that it was highly improbable that the incident would have taken place. There are no other independent witnesses examined by the prosecution though allegedly the Applicant was sitting outside her house for quite some time. Nobody heard any shouts raised by the victim.

6. Learned counsel for the Applicant further submitted that the Applicant is falsely implicated in this case because of the rivalry in the election of a Sugar Factory. He further submitted that the Applicant was on bail during the trial and even after his conviction he was granted temporary bail by the trial Court. There are no antecedents against the Applicant.

7. Learned APP as well as learned counsel for the Respondent No.2 submitted that the prosecution has proved its case beyond reasonable doubt. The incident has taken place in the afternoon and at that time it was not expected that the neighbours would have noticed the incident.

8. All these issues raised by both the sides will have to be considered at the final hearing stage. However, the sentence

imposed on the Applicant is short. The Appeal is not likely to be decided within that short period. The Applicant was on bail during the trial.

9. Considering all these aspects, the Applicant can be granted bail pending his Appeal.

10. Hence, the following order :

ORDER

- (i) During pendency and the final disposal of the Applicant's Criminal Appeal No.862/2024, the Applicant is directed to be released on bail on his executing a 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 Application is disposed of accordingly.

Digitally signed
by
PRADIPKUMAR
PRAKASHRAO
DESHMANE
Date:
2024.10.03
11:47:31 +0530

(SARANG V. KOTWAL, J.)