

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

**INTERIM APPLICATION NO. 3207 OF 2023
IN
CRIMINAL APPEAL NO. 1085 OF 2023**

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....Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Shailesh Chavan i/b Mr. Milind Deshmukh, Advocate for the Applicant.

Mr. Vishwajit N. Sagare, APP for the Respondent/State.

Ms. Gunjan Thakkar, Advocate for Respondent No.2.

CORAM : SARANG V. KOTWAL, J.

DATED : 24th JULY, 2025

P.C. :

1. This is an Application for bail pending Appeal. The Applicant was the accused in POCSO Special Case No. 11 of 2019 before the Additional Sessions Judge, Vaduj. The Learned Judge vide its judgment and order dated 17th October, 2022 convicted the Applicant for commission of the offence punishable under Section 376 and 376(3) of the Indian Penal Code, 1860 (the IPC) and under Section 3 read with 4, and under Section 5 read with 6 of the Protection of Children from Sexual Offences Act, 2012 (the POCSO Act). He was sentenced to suffer RI for twenty years and to pay a fine of Rs.50,000/- and in default to suffer SI for one year. He was further convicted for commission of the offence punishable under Section 506 of the IPC and was sentenced to suffer RI for two years and to pay a fine of Rs.1,000/- and in default SI for one month.

2. Heard Mr. Shailesh Chavan, learned counsel for the Applicant, Mr. Vishwajit N. Sagare, learned APP for the Respondent-State and Ms.Gunjan Thakkar, learned counsel for Respondent No.2.

3. The prosecution case is that the victim in this case was 16 years of age. She was a school going child. In the year 2018 the applicant took her on his motor cycle and committed rape on her. He repeated the crime on many occasions. The victim became pregnant. Her parents came to know about her pregnancy and then this FIR was lodged. After registration of FIR the victim gave birth to a child. The applicant faced the trial and was convicted.

4. Learned Counsel for the Applicant submitted that the victim has not given the exact date on which this incident has taken place. There is no evidence from the medical officer as to when the samples of the applicant were collected for DNA analysis. He has old parents and minor children. He is in custody since 02/02/2019. Therefore, he be granted bail.

5. Learned Counsel for Respondent No.2 as well as Learned APP submitted that there is absolutely no defence taken worth mentioning by the Applicant. A child was born because of this act. The DNA sample shows that the applicant is the biological father of the child of the victim. The age of victim at the time of the incident was not disputed. This is a serious case and sentence is of 20 years. Therefore, bail may not be granted to the applicant.

6. I have considered the submissions. The victim was examined as P. W.1. She has described the incident in detail. She was studying in the 10th standard in the year 2018. Her date of birth is 15th July 2003. She had produced her birth certificate issued by the Grampanchayat Darajai. On the first occasion the applicant gave her lift on his motor cycle. He started meeting her regularly when she attend her classes. On one of those days he took her to a secluded spot near the road going towards village Nidhal. He committed rape on the victim. After that he repeated that on many occasions. He threatened her that he would commit her murder. She stopped attending her classes due to fear. She stopped going to the school. In spite of that, he came to her house and threatened her. He repeatedly committed that act. She became pregnant. After three months, her pregnancy became known. Therefore, her parents asked her about the incident. Then she lodged the FIR on 31st January, 2019. That FIR is produced on record at Exhibit 17. After registration of the FIR she gave birth to a daughter on 16th February, 2019. Thus, her evidence is absolutely clear. At this stage, I do not find any infirmity in her evidence. The offence is of quite serious. She was only about 15 years of age. Because of the act of the applicant she became pregnant and gave birth to a girl child. The offence is quite serious and the sentence is of 20 years. I am not inclined to grant bail to the applicant.

7. The Application is rejected.
8. The Application stands disposed of.

(SARANG V. KOTWAL, J.)