

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

**INTERIM APPLICATION NO. 2925 OF 2024
IN
CRIMINAL APPEAL NO. 1309 OF 2023**

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Rajebaksar Rajesab Pirjade

....Applicant

Versus

The State of Maharashtra and Anr.

...Respondents

Mr. Satyavrat Joshi a/w Ms. Tanvi Tapkire, Advocates for the Applicant.

Mr. Pankaj P. Devkar, APP for the Respondent/State.

Ms. Kanchan Pawar, 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 against the judgment and order dated 8th August, 2023 passed by the Additional Sessions Judge, Sangli in Special POCSO Case No. 124 of 2019. The Applicant was convicted for commission of the offence punishable under Section 376 (A)(B) of the Indian Penal Code, 1860 (the IPC) and under Section 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.25,000/- and in default to suffer RI for one year.

2. Heard Mr. Satyavrat Joshi, learned counsel for the Applicant, Mr. Pankaj Devkar, learned APP for the Respondent-State and Ms. Kanchan Pawar, learned counsel for Respondent No.2.

3. The prosecution case is that the applicant was doing carpentry work in the house of the victim. The incident took place on 16th October 2019. The date of birth of the victim was 28th November, 2012 that means she was around 7 years of age at the time of incident. It is the prosecution case that when she went to the hall where the applicant was sitting he inserted his finger in the private parts of the victim. She complained to her mother who was cooking in the kitchen. The mother in turn called the victim's father to come home. They had not allowed the applicant to go away. The police were informed and the FIR was lodged. The applicant was arrested and the investigation was conducted. He faced the trial and ultimately was convicted and sentenced for 20 years.

4. Learned Counsel for the applicant submitted that during investigation and pendency of the trial the applicant was in custody for one year. After that he was granted bail during pendency of trial. After his conviction on 8th August 2023 he is again taken in custody. Thus, he is in custody for two more years. As of today he has completed almost three years in the custody. He submitted that evidence against the applicant is very weak. In fact, the prosecution has not proved the case at all. The victim has admitted that she was tutored before giving evidence in the Court. The evidence shows that there was one more house maid working in the same house. The mother herself was working in the kitchen. It was impossible that the applicant would have committed this offence when the

mother and the house maid were around. He further submitted that the conduct of the victim's parents is also unnatural. He further submitted that parents of the victim had refused permission for medical examination of the victim. The case was lodged because of financial dispute regarding wages of the applicant.

5. Learned Counsel for the Respondent No.2 and Learned APP submitted that though there is evidence to show that the house maid was working in the house but there is nothing to show that she was in the hall when this incident took place. They submitted that since the victim was a small child, some concession has to be given to some discrepancy in her evidence. She further submitted that merely making dispute regarding the wages would not mean that the incident was not true.

6. I have considered these submissions. The evidence of the victim, her mother and her father are important. The victim was examined as P.W. 2. She has mentioned her date of birth as 28th November 2012. Then she had described the incident when the applicant had committed the offence as described above. She went to her mother and narrated the incident to her. Importantly she admitted in the cross examination that, at the time of incident the maid servant Varsha Mavshi was working in the house. She further admitted that till arrival of the police Varsha Mavshi was still in the house. There is one important omission from her police

statement. She could not explain as to why in her police statement it is not mentioned that the applicant had put his hand in her clothes. Most importantly she has admitted that before her deposition in the Court her police statement was given to her for reading. She had read that statement 3 to 4 times. She could read Marathi. The contents were explained to her by police. The Government Advocate taught her what to depose before the Court. These admissions clearly show that she was a tutored witness and therefore not much reliance can be placed on her evidence.

7. As far as the mother is concerned she was examined as P.W. 1. She has deposed that after the victim complained to her about the act committed by the applicant she informed her husband. He came home. She narrated the incident to him. After that her husband paid wages to the applicant. Then they made a phone call to the police. This conduct of the parents of the victim appears to be quite unnatural. Once the father is told about the act committed against his daughter, his reaction would be different. He would not simply pay the wages to the applicant. The mother had not tried to verify whether the victim had suffered any injuries. In fact, the evidence shows that they refused permission for medical examination. The aforementioned Varsha Mavshi is not examined.

8. The father of the victim in his evidence as P.W. 7 has admitted that the applicant used to work in his house in the past also. He was doing

carpentry work since past many years and because of good work and behaviour PW. 7 was giving him that work. However, he denied the suggestion that there was dispute between them on account of payment.

9. Considering all this discussion, sufficient doubt is created regarding the prosecution case. The applicant was already in custody for three years. The applicant has made out a case for grant of bail during pendency of his Appeal. Hence, the following order :

ORDER

(i) During pendency and final disposal of the Criminal Appeal No.1309/2023, the Applicant is directed to be released on bail on his executing PR. bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.

(ii) Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)