

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3688 OF 2024
IN
CRIMINAL APPEAL NO.996 OF 2024

Ashish Ashok Jadhav	...Applicant
<i>Versus</i>	
The State of Maharashtra & Anr.	...Respondents

Mr. Ramanik Pawar a/w Ms. Samiksha Pawar, Ms. Aarati Bajpai, Ms. Trupti Jambulkar, Ms. Dhanashree Jagdale and Mr. Samadhan Mahmulkar, Advocate for the Applicant.
Ms. Janhavi S. Karnik, appointed by Court for Respondent No.2 Complainant-mother.
Ms. Gauri S. Rao, APP, for the Respondent-State.

CORAM: MADHAV J. JAMDAR, J.
DATED : 10th July 2025

PC:-

1. The relief sought in the Interim Application is that pending the hearing and final disposal of the Criminal Appeal, the sentence imposed by the learned Additional Sessions Judge in Special Case No.83 of 2019 vide Judgment and Order dated 6th July 2024 be suspended and the Applicant be enlarged on bail.

2. Mr. Pawar, learned Counsel for the Applicant submitted that the Appeal is already admitted by Order dated 14th February 2025.

He submits that the F.I.R. has been lodged on 14th March 2019 and the Applicant was arrested on 16th July 2019, till date the Applicant is incarcerated. He submits that considerable time will be required for final hearing of the Appeal. He further submitted that there are very valid grounds raised in the Criminal Appeal. He submitted that there are various contradictions in the evidence and therefore, the evidence of the prosecution is not believable. He submitted that the age of the victim has not been established and the evidence in that behalf is not believable. He submitted that the relationship between the Applicant and victim was consensual. He submitted that apart from these contentions, there are other valid points raised in the Criminal Appeal and therefore, the Interim Application be allowed.

3. On the other hand, Ms. Gauri Rao, learned APP and Ms. Janhavi Karnik, learned Advocate appointed to represent interest of the Respondent No.2-complainant-mother submitted that at the relevant time, age of the Applicant was 26 years and age of the victim was 14 years. Both of them submitted that at the relevant time, as the victim was minor, she was incapable of thinking rationally and giving any consent. Both of them therefore

submitted that there is no substance in the contention raised by Mr. Pawar, learned Counsel for the Applicant that the relationship was consensual.

4. Ms. Karnik, learned Counsel submitted that when the first incident took place, the victim was only of 12 years old and she delivered the child, when her age was 14 years and 5 months. She submitted that in the year 2017, the victim was in 7th standard. She pointed out paragraph No.119 of the impugned Judgment passed by the learned Special Judge, Kolhapur and submitted that the victim was required to undergo the trauma and pain to deliver the child in her tender age and also she has undergone mental agony and has suffered social stigma of becoming unmarried mother in her tender age. Ms. Karnik, learned Counsel also relied on the decision of the Supreme Court in the case of **Satish Kumar Jayanti Lal Dabgar Vs. State of Gujarat**¹ and more particularly on paragraph Nos. 14 and 15 of the same.

5. Thus, in the facts and circumstances of the case, learned APP and Ms. Karnik, learned Counsel for Respondent No.2 submitted that the Interim Application be dismissed.

¹ (2015) 7 SCC 359

6. Perusal of record shows that the F.I.R. has been lodged on 14th March 2019 and the Applicant was arrested on 16th July 2019. The Applicant has been convicted by the Judgment and Order dated 6th July 2024. The Appeal is already admitted by a learned Single Judge by Order dated 14th February 2025. There are arguable points raised in the Appeal. The Applicant is behind bars since about 6 years. Considering the pendency of the Appeals for final hearing, it will take considerable time for hearing the Appeal on merits.

7. Although it is one of the contention of learned Counsel appearing for the Applicant that the relationship between the Applicant and the victim was consensual, Ms. Karnik, learned Counsel appearing for the Respondent No.2 has rightly relied on the decision of the Supreme Court in the case of **Satish Kumar Dabgar** (supra) to support her contention that minor is incapable of thinking rationally and giving any consent. However, it is required to be noted that the Applicant is behind bars for last about 6 years. There is no possibility of taking up the Appeal for final hearing in short time. Accordingly, the case is made out for grant of bail during the pendency of the Appeal.

8. Ms. Rao, learned APP and Ms. Karnik, learned Counsel alternatively submitted that even if this Court is inclined to grant bail to the Applicant, he be directed not to enter District-Kolhapur in the facts and circumstances. Mr. Pawar, learned Counsel on instructions state that the Applicant will stay at the place of his cousin brother i.e. Mr. Amol Anil Nilakhe, Krantisinha Patil Nagar, Road No.5, Uran, Islampur, Taluka Valava, District-Sangli.

9. Thus although the Applicant is entitled to be released on bail, however, in the facts and circumstances, stringent conditions are required to be imposed on the Applicant. In view thereof, the following order:

ORDER

- (a) The sentence of imprisonment imposed vide Judgment and Order dated 6th July 2024 passed by the learned Special Judge, Kolhapur in Special Case Child Protection No. 83 of 2019 is suspended during pendency of Criminal Appeal preferred by the Applicant and the Applicant is directed to be released on bail on executing PR Bond in the sum

of Rs.50,000/- with one or more solvent sureties in the like amount;

- (b) The Applicant shall not enter District Kolhapur till disposal of the Appeal.
- (c) The Applicant shall report to Islampur Police Station, Taluka Valava, District- Sangli, once in a month i.e. on first Sunday of each month between 11.00 am to 1.00 pm till disposal of the Criminal Appeal.
- (d) On being released on bail, the Applicant shall furnish his cell phone number and residential address to the Trial Court and shall keep the same updated, in case of any change thereto;
- (e) The Applicant shall not contact the victim or her family members or any other witnesses in any manner.

10. Accordingly, the Interim Application is allowed in the aforesaid terms and disposed of.

BHALCHANDRA
GOPAL
DUSANE

(MADHAV J. JAMDAR, J.)

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