

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

**INTERIM APPLICATION NO.1734 OF 2024
IN
CRIMINAL APPEAL NO.155 OF 2024**

Ramesh Chandar Pagi ...Applicant
Versus
State of Maharashtra And Anr. ...Respondents

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Mr. Sanjay Ghaisas, Advocate for the Applicant.
Ms. Swapana Kode, Advocate for the Respondent No.2.
Ms. Kranti Hiwrale, APP for the State/Respondent.

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**CORAM : SARANG V. KOTWAL &
ADVAIT M. SETHNA, JJ.**

DATE : 26th AUGUST 2025

P.C. :

1. This is an application for bail pending appeal. The applicant was convicted by the learned Additional Sessions Judge, Nashik by the judgment and order dated 13th December 2023 passed in Sessions (POCSO) Case No.178 of 2018. The Applicant was on bail during trial. He was in custody for one year and three months,

during the investigation and pendency of the trial. He was granted bail subsequently. After his conviction, however, on 13th December 2023 he was taken in custody again and since then he is in custody. The Applicant was convicted for commission of offences punishable under Sections 452, 363, 376(2)(f)(i) and 506 of the Indian Penal Code (IPC) and under Section 5(p) punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012. He was sentenced to suffer RI for life (remainder of his natural life) and to pay a fine of Rs.10,000/- (Rupees Ten Thousand Only).

2. Heard Mr. Sanjay Ghaisas, learned Advocate for the Applicant and Ms. Swapana Kode, learned counsel for the Respondent No.2 and Ms. Kranti Hiwrale, APP for the Respondent – State.

3. The prosecution case is that the date of birth of the victim was 1st January 2004. The incident occurred on 1st March 2018. The victim had returned home at about 11.00 am after watching a movie at her cousin's place. The Applicant entered her house. He gagged her mouth and lifted her. He took her to the place

surrounded by mango trees. It is her case that he told the victim that he liked her and that they would elope together. He removed her clothes and established physical relationship. One Nana Bapu came to that place to answer nature's call. The Applicant ran away. The victim came home with the said Nana Bapu. She discussed the incident with her parents and lodged the FIR.

4. During the trial, the prosecution examined 7 witnesses including the victim, her mother, the said Nana Bapu, the Police Officers, the Headmaster of the School and the Medical Officer.

5. After hearing both the sides, the learned Judge convicted and sentenced the Applicant. The defence of the Applicant was that there was a land dispute between the Applicant and the victim's family and therefore, he was falsely implicated. This defence was not accepted.

6. The learned counsel for the Applicant submitted that the evidence of the victim shows that there were strong reasons for false implication of the Applicant. She has admitted the enmity in clear words in her cross-examination. The independent witness Nana Bapu has not supported the prosecution case. The victim's

age is not proved. In her cross-examination, there are indications that at the time of the incident, she could be 20 years of age. But even otherwise, the incident is absolutely false and the Applicant is falsely implicated. The victim's version is not supported by the medical evidence. The learned counsel for the Applicant submitted that the Applicant was on bail during the trial and he has not misused the liberty.

7. The learned APP as well as the learned counsel for the Respondent No.2 submitted that the prosecution has proved that the victim was a minor on the date of the incident through the evidence of the Headmaster of the School and according to the school record her date of birth was 31st March 2004. Therefore, on the date of the incident, she was below 14 years of age. They submitted that there is no reason to doubt the evidence of the victim when she has described the incident in detail. They opposed the grant of bail.

8. We have considered these submissions and with the assistance of the learned counsel for both the sides, we have perused the evidence.

9. The evidence of the victim who was examined as PW.1 is important. She has described the incident as narrated above in her examination-in-chief. However, her cross-examination is important. She has stated in her cross-examination that at the time of her deposition before the Court which was recorded on 10th March 2022, her age was 24 years. That means at the time of the incident on 1st March 2018 she was about 20 years of age. This is just one circumstance which creates a doubt about her age but apart from that her cross-examination indicates that there were strong reasons for false implication. She has agreed that the Applicant was a married man and had 5 children. About 2 to 3 years before the incident, she had received 2 to 3 proposals for marriage.

10. She admitted that at the time of the incident, she was sleeping next to her mother. Considering her statement, it is difficult to believe that the Applicant would lift her from her house when she was sleeping next to her mother. It is difficult to believe that she did not raise any shouts and nobody from her house could see this incident.

11. She further admitted that the agricultural land belonging to

one Gangaram Pagi was cultivated by the victim's family in half area and the remaining land was cultivated by the Applicant. He was cultivating that land before he was arrested in this case. She admitted that there was dispute between the two families over that land.

12. She further admitted that her marriage was fixed with the Applicant's elder son. She admitted that the Applicant's son had refused to marry her. She has also admitted that the Applicant had seen her going towards the jungle with four boys and he had complained about it to her parents. The parents had thought that the Applicant was defaming her. She has stated that she had lodged the FIR as per the say of her parents.

13. The victim's mother was examined as P.W.2. She admitted that after the Applicant was arrested, the possession of the land cultivated by him came in possession of the victim's family.

14. P.W.3 was the said Nana Bapu referred to by the victim. He had turned hostile and did not support the prosecution case. He had stated that the Applicant had gone to the house and the victim had gone out of that area by a different route.

15. P.W.5 was the Medical Officer. She noticed a bite mark on the victim's right breast. Apart from that she did not notice any external injury. In the cross-examination, she admitted that she had not carried out genital examination of the victim and therefore, she could not opine whether the victim's hymen was torn or not. She admitted that on the basis of oral narration of the victim she had opined that there was sexual assault on the victim. Thus, the medical evidence hardly supports the prosecution case.

16. As can be seen from this evidence, the case against the Applicant is doubtful. There were strong reasons for the victim to falsely implicate the Applicant. Infact, after he was arrested, his land which he was cultivating came in the possession of the victim's family. The victim had many reasons referred to hereinabove to implicate the Applicant falsely. In fact, on one occasion the Applicant's son's proposal for marriage with her was almost finalised. But the Applicant's son had refused to marry her. P.W.3 has not supported the prosecution case fully. As mentioned earlier, it is difficult to believe that the Applicant could lift the victim from next to her mother and could take her to a secluded

spot without any struggle or shouts. Sufficient doubt at this stage is created against the prosecution case. He was on bail during the trial. There are no allegations of misuse of that liberty. Therefore, the Applicant deserves to be released on bail. Based on all these considerations, the Applicant deserves to be released on bail during pendency of his Appeal. Hence, the following order:-

ORDER

- (i) During the pendency and final disposal of the Applicant's Criminal Appeal No.155 of 2024 the Applicant is directed to be released on bail on executing P.R. Bond of Rs.25,000/- with one or two sureties in the like amount.
- (ii) Application is disposed of.

(ADVAIT M. SETHNA, J.)

(SARANG V. KOTWAL, J.)