

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

**INTERIM APPLICATION NO.3186 OF 2024  
IN  
CRIMINAL APPEAL NO.864 OF 2024**

Sanehi Shrikisan Gaud .. Applicant

vs.

The State of Maharashtra & Anr. .. Respondents

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Mr. Tejesh Dande with Trushna Shah for the Applicant.

Ms. Kranti T. Hiwrale APP for the Respondent-State.

Ms. Manisha Jagtap for Respondent No.2, through the Legal Aid.

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**CORAM : SARANG V. KOTWAL &  
SHYAM C. CHANDAK, JJ.**

**DATE : 8<sup>th</sup> JULY, 2025**

**P C. :**

1. This is an Application for bail pending Appeal. The Applicant was original accused in Special Case (POCSO) No.37 of 2017 before the Additional Sessions Judge, Vasai. The learned Judge vide his Judgment and Order dated 28/06/2024 convicted the Applicant for commission of offences punishable under Section 376 (2)(i)(j)(l) of I.P.C. and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). The Applicant was sentenced to suffer imprisonment for life and to pay fine

of Rs.10,000/- and in default to suffer further S.I. for six months.

2. Heard Mr.Tejas Dande, learned Advocate for the Applicant, Ms.Kranti Hiwrale, learned APP for the Respondent-State and Ms.Manisha Jagtap, learned Advocate, appointed through the Legal Services Authority for Respondent No.2.

3. The prosecution case is that the victim in this case was 16 years of age. She was mentally challenged. The Applicant was residing in neighborhood. The incident occurred on 15/01/2017. On that day the Applicant took the victim to his house and committed rape on her. The victim's mother was informed by the victim. On this basis C.R.No.38 of 2017 was registered with Tulinj police station, Vasai. The investigation was carried out resulting in the trial and conviction.

4. The learned Counsel for the Applicant submitted that the Applicant is in custody since 19/01/2017. The evidence is based on the deposition of the victim and her younger sister. Both of them were not capable of giving proper answers and therefore, from that angle the evidence need to be tested. The learned Counsel for Respondent No.2 as well as learned APP on the other hand relied on the same evidence. They submitted that the learned Judge is satisfied with their capabilities of understanding the proceedings. There is no infirmity in their evidence. They

are supported by the medical evidence.

5. We have considered the submissions and we have, in particular, perused the evidence of the victim and her sister. The victim was examined as PW3. She has narrated the incident that, on that day she was playing with her sister. The Applicant called her. He took her inside his house. She described the incident of rape. The Applicant had also beaten her when she protested. When she was returning home, she met her sister on the road. She told her mother about the incident. The cross examination does not show anything in favour of the Applicant.

6. Her sister was examined as PW5. She was 12 years of age at the time of deposition. She has also corroborated the incident. She was playing with the victim. The Applicant took the victim to his house. PW5 continued playing with others, but after sometime she saw that the victim was not there. She ran towards the house of the Applicant. She climbed on the steel door and pushed aside the curtain by putting her hand. She saw the actual incident of rape.

7. Besides this evidence, there is a medical evidence which shows that the victim was examined on 18/01/2017. There was injury to hymen and there was a fresh tear. The medical finding was consistent with sexual intercourse and was positive for sexual assault. Thus, there is direct evidence

of the prosecutrix/victim, her sister and the medical evidence. The offence is very serious. The Applicant has committed this offence against a girl, who was not only a minor but also mentally challenged. Considering the gravity of the offence and quality of evidence, no case for grant of bail pending Appeal is made out.

8. Interim Application is accordingly dismissed.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)