

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

INTERIM APPLICATION NO. 3410 OF 2024

IN

CRIMINAL APPEAL NO. 927 OF 2024

Sunil Tippa Panthikar

.... Applicant

v/s.

The State of Maharashtra and anr.

.... Respondents

Mr. Ashok Mundargi, Senior Advocate for the Applicant.

Ms. Kranti Hiwrale, APP for the Respondent No.1 – State.

Ms. Tanvi Tapkire for Respondent No.2.

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

DATED : 02nd JULY, 2025

P. C. :-

. This is an Application for bail pending the Appeal.

2) Heard Mr. Ashok Mundargi, learned Senior Counsel for the Applicant; Ms. Kranti Hiwrale, learned APP for the Respondent No.1-State and Ms. Tanvi Tapkire, learned Counsel for Respondent No.2-Original Complainant.

3) The Applicant was the sole accused before the learned Additional Sessions Judge, Nashik in Sessions (POCSO) Case No.365 of 2018. The Applicant was convicted for commission of the offences punishable under Sections 376(2)(3), 376(2)(n), 354 of the Indian Penal Code and under Sections 4, 6, 8 and 10 of the Protection of Children from Sexual Offences (POCSO) Act, 2012. He was sentenced

to suffer rigorous imprisonment for life which shall mean imprisonment for the remainder of his natural life and to pay a fine of Rs.10,000/- as a major punishment.

4) The prosecution case is that, the victim was the step daughter of the Applicant. According to her, since she was in the 5th standard till 10/08/2018 when she was taking education for second year of Diploma in Engineering, the Applicant was keeping physical relations with her. On the last occasion i.e., on 07/08/2018, it became unbearable to her and she informed her maternal uncle who took her to the Police Station. Her mother was called to the Police Station. Her mother lodged the FIR and the investigation started. The Applicant was arrested on 11/08/2018. He was granted bail on 01/10/2018. Thus, during trial, he was on bail. After his conviction, he was taken into custody on 19/07/2024 and since then he is in custody.

5) Learned Senior Counsel for the Applicant submitted that, on the face of it, the story narrated by the victim is false. It was not possible that she could have kept quiet for about five to six years and that she would not tell about the incident even to her mother. The record shows that her mother has not supported the prosecution case

during trial. There is no corroborative piece of evidence and in particular, the medical evidence negates her allegations made in the deposition. The cross-examination of the victim shows that, she had very definite reasons to implicate the Applicant falsely. He invited our attention to the cross-examination of the victim, wherein as a part of discipline, the Applicant had not only scolded her but on a couple of occasions, had broken her mobile phones when he came across the messages sent by her male friends. He submitted that looking at this background in its entirety, sufficient doubt is created about her version and therefore, it could not be in accordance with justice and fairness that the Applicant is kept in custody on the basis of such weak evidence.

6) Learned Counsel appearing for the victim as well as the learned APP opposed these submissions. They submitted that the victim has given consistent version in her deposition and also in the statement recorded under Section 164 of Cr.P.C. They submitted that quite clearly, the mother of the victim was won over by the Applicant because they were married and they had a son from their marriage. They further submitted that considering the tender age of the victim, it was understandable that she could not tell about these facts to

anybody else.

7) We have considered these submissions and we have perused the evidence annexed to this Application.

8) The evidence of the victim is important in this case. She has stated that the Applicant was her step father. At the time of the incident, she was 18 years of age. She was studying in the 2nd year of Diploma. Her date of birth is 27/01/2001. According to her, since she was in the 5th standard, the Applicant was having forcible physical relations with her. The last occasion was on 07/08/2018. On that day, when she returned home from her college, she was alone. The Applicant came near her and committed rape. According to her, since her mother used to attend the office, she used to be alone. On 08/08/2018, she informed this incident to her maternal uncle. He took her to the police station. Her mother lodged the FIR. Her own statement was recorded on 13/08/2018. In the meantime, she was sent for medical examination on 10/08/2018. Her clothes were seized. The bedsheet and the clothes of the accused were seized. Her statement was recorded under Section 164 of Cr.P.C.

In her cross-examination, she admitted that her mother had married the Applicant out of love relationship. Her maternal

uncle and maternal grandfather were opposed to that marriage. She admitted in her cross-examination that she used to discuss anything with her mother but she did not tell anything about the acts of the accused which were committed since she was in the 5th standard till 07/08/2018.

In her further cross-examination, she deposed that when the Applicant and her mother saw some messages from a boy, they took her to his house. At that time, the Applicant had slapped her twice. The Applicant had snatched her mobile phone and had broken it. After that, on one occasion, her mother had seen another mobile phone with the victim. At that time, her mother had seen message of another boy. The mother had informed about this to the Applicant. Again the Applicant had taken that mobile phone and had broken it. He had also scolded her.

9) These admissions show that the victim was holding a definite serious grudge against the Applicant who was her step father.

10) In her statement recorded under Section 164 of Cr.P.C., the victim had stated that when she was in the 8th standard, she had given idea of such incidents to her mother. Of course, this statement is not made in her examination- in-chief.

11) PW-2 was the mother of the victim. She has not supported the case of the victim. She had denied that she had given any narration to the police in her FIR. She had clearly deposed that PW-1, the victim had not told this witness about the incident at all. PW-2 was declared hostile but the fact remains that she has not supported her own daughter.

12) In this background, the medical evidence is also important. The prosecution had examined PW-5 Dr. Prachi Tarshettiwar. She has deposed that when she examined the victim on 10/08/2018 in the Civil Hospital, there was no fresh injury to the labia majora, labia minora, fourchette, vulva and perineum. There was no bleeding from vagina and cervix. Her hymen was found torned. The opinion was kept reserved for availability of C.A. report. She admitted that the C.A. reports were negative but she still opined that the possibility of sexual intercourse cannot be ruled out. The C.A. reports regarding the bedsheet and the clothes were negative. It did not support the prosecution case. Thus, even the medical evidence is not fully supporting the version of the victim. There was no fresh injury.

13) Thus, from this evidence, it is clear that there is a strong

possibility that the victim may not be telling the truth. It is very difficult to believe that for about five to six years, the victim did not confide even in her mother about what was going on. Then, there is a background of the grudge which the victim was entertaining against the Applicant. Her version is not even supported by the medical evidence. Therefore, in this background, there is a strong possibility that it may be a case of false implication. The Applicant was on bail during trial. There are no allegations that he had misused that liberty. Therefore, we are inclined to allow this Application. It is made clear that these observations are made only for the purpose of deciding this bail application. All these aspects will have to be considered finally at the stage of hearing. At this stage, the Applicant has made out a case for grant of bail pending his Appeal. Hence, the following Order :-

- O R D E R -

(a) During pendency and final disposal of Criminal Appeal No.927 of 2024, the Applicant is directed to be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

14) Interim Application stands disposed of.

(SHYAM C. CHANDAK, J.)

(SARANG V. KOTWAL, J.)