

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

**INTERIM APPLICATION NO.1763 OF 2025
IN
CRIMINAL APPEAL NO.504 OF 2025**

Kiran Kishor Bagnaik Applicant

V/s.

The State Of Maharashtra And Anr Respondents

**WITH
INTERIM APPLICATION NO.1609 OF 2025
IN
CRIMINAL APPEAL NO.443 OF 2025**

Mahesh Dattatray Bidve Applicant

V/s.

State Of Maharashtra And Anr Respondents

**WITH
INTERIM APPLICATION NO.1762 OF 2025
IN
CRIMINAL APPEAL NO.504 OF 2025**

Kiran Kishor Bagnaik Applicant

V/s.

The State Of Maharashtra And Anr Respondents

Mr.Vishal V. Rankhambe a/w Ms.Aparna V. Rankhambe,
Mr.Chaityanya M. Bagul and Mr.Afsar Ansari, for the Applicant
in IA No.1763 and 1762 of 2025.

Ms.Shubhangi Parulekar a/w Ms.Varsha Bhosale, for the
Applicant in Appeal No.443 of 2025.

Mr.C.D. Mali, APP, for Respondent No.1-State.

Ms.Vrunda Surve, Appointed Advocate, for Respondent No.2.
Mr.Dandge, API, Sangvi Police Station.

CORAM : R.M. JOSHI, J.

DATE : 9th DECEMBER 2025

P.C:-

. Heard both sides.

2. This Applications are for suspension of substantive sentences and enlargement on bail in connection with the judgment and order dated 12th March 2025 passed in Special POSCO Case No.555 of 2017, whereby the Appellants/Accused are convicted for the offenses punishable under Sections 376-D, 377, 363, 366-A, 354-A, 504 of the Indian Penal Code, 1860 ('IPC' for short) and Section 4,6,8 and 12 of the Protection of Children from Sexual Offence Act, 2012 and sentenced to suffer maximum sentence of 20 years with fine.

3. The learned counsel for the Appellants submits that, the testimony of the victim is wholly inconsistent as

compared to the statement made before the Medical Officer. In this regard, attention of the Court is drawn to the evidence of victim and cross-examination and the evidence of Medical Officer. It is sought to be argued that, not only the factum the occurrence of the incident on 20th September 2017 become doubtful but also admission given by the victim with regard to her romantic relationship with Accused No.1 and her previous affair with another body, with physical relations with him, creates doubt about whole the case of the prosecution. It is submitted that the Appellants/Accused have reasonable chance of success during the final hearing of the Appeal, and since the Appeal is not likely to be heard in short period of time, so also in view of the fact that, the Appellants have already gone sentence of more than 8 years, they deserve to be enlarged on bail.

4. The learned counsel for Respondent No.2-victim as well as APP opposed the Application essentially on the ground that the victim is aged about 16 years and hence her consent for the consensual relationship becomes immaterial. She also drew

attention of the Court of the substantial evidence of victim before the Trial Court to contained that the victim has deposed that the acts which are committed by the Accused on fateful day. It is argued that, the evidence of victim gets support from the testimony of the Manager of the lodge wherein the victim was taken. The learned APP submit that, in view of presumption under Section 29 of the Act, the burden is on the Accused to prove his innocence. On these amongst other submissions the rejection of the Application is sought.

5. There cannot be any dispute with regard to the proposition of law that merely because the convicts have spent substantial period of time in jail, that itself does not a become ground for their enlargement on bail. The Court has to see as to whether there would be atleast fair chance of success for the Appellant while hearing the Appeal finally.

6. Perusal of the record indicates that, the victim has deposed before the Trial Court indicating the incident which has allegedly occurred on 20th September 2017. However, in the history given to the Medical Officer, altogether different

version has been given with regard to the incident. In the history given to the Medical Officer which is proved before the Trial Court, she states about she resisting any sexual assault on her successfully. There is further admission of the Medical Officer during the cross-examination that on the fateful day there was no sexual assault reported to have been committed on the victim. Having regard to these facts, there is serious doubt created about the veracity of the statements made by the victim in her testimony before the Trial Court with regard to incident in question.

7. This Court is conscious of the fact that the history of the victim by itself would not be sufficient to held the Accused in seeking acquittal. However, at the same time the history can be completely ignored. The victim candidly states about the consensual relationship with Accused No.1. She also admits to have physical relations with another boy.

8. In the light of these facts, the inconsistencies in the statement of victim as compared to her previous statement become material. Thus, it can be said that, the Appellant

would have fairly reasonable chance of success in the Appeal. Needless to state that owing to pendency Appeal is not likely to be heard in the short time. The Appellants are behind bar for more than 8 years. They have no criminal history and they are not likely flee from justice. Hence, Applications stands allowed.

ORDER

- (i) The Applications are allowed.
- (ii) The Appellants-Accused be released on bail on furnishing a P.R. Bond of Rs.15,000/- each with one surety each in the like amount.
- (iii) The Appellant shall not contact the victim in any manner whatsoever directly or indirectly.

(R.M. JOSHI, J.)