

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

**INTERIM APPLICATION NO.2211 OF 2025
IN
CRIMINAL APPEAL NO.645 OF 2025**

Pratik Kisan Kalane

.... Applicant

versus

The State of Maharashtra & Anr.

.... Respondents

.....

- Mr. Tanmay Kate i/b. A. R. Chikate a/w Nitin Bhalerao a/w Vipul Dushing, Advocate for Applicant.
- Mr. Ajit Savagave, Advocate for Respondent No.2
- Ms. Ranjana D. Humane, APP for the State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 14th AUGUST, 2025

P.C. :

1. This is an application for bail pending Appeal. The Applicant was convicted and sentenced by the learned Additional Sessions Judge, Pune, vide his Judgment and Order dated 16/05/2025 passed in Special POCSO Case No.294/2014, as follows:

- (i) The Applicant was convicted for commission of the offence punishable u/s 363 r/w 34 of the

Indian Penal Code and was sentenced to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.3,000/- and in default of payment of fine to suffer simple imprisonment for 15 days.

- (ii) He was convicted for commission of the offence punishable u/s 507 r/w 34 of the Indian Penal Code and was sentenced to suffer rigorous imprisonment for two years and to pay a fine of Rs.1,000/- and in default of payment of fine to suffer simple imprisonment for 7 days.
- (iii) He was also convicted for commission of the offence punishable u/s 11 r/w 12 of the Protection of Children from Sexual Offences Act, 2012 and was sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.2,000/- and in default of payment of fine to suffer simple imprisonment for 10 days.
- (iv) All the substantive sentences were directed to run concurrently.
- (v) The Applicant was acquitted from the charges of the offence punishable u/s 366(A) of the Indian Penal Code.

- (vi) He was given benefit of set off u/s 428 of Cr.P.C.
- (vii) Out of the fine amount of Rs.6,000/-, if deposited by the Applicant, amount of Rs.3,000/- was directed to be given to the victim as compensation.

2. Heard Mr. Tanmay Kate, learned counsel for the Applicant, Mr. Ajit Savagave, learned counsel for the Respondent No.2 and Ms. Ranjana D. Humane, learned APP for the State.

3. Learned counsel for the Applicant submitted that the victim in this case was examined as P.W.2. At the time of the alleged incident, she was seventeen years and two months old. It was always the victim who was insisting that the Applicant should take her with him and that they should stay together. The Applicant is not at fault. In spite of that, the Applicant is convicted and a very harsh sentence is imposed on him. He submitted that the offence u/s 507 of the Indian Penal Code is not made out.

4. Learned APP and the learned counsel for the

Respondent No.2 submitted that since the victim was below 18 years of age, the allegations against the Applicant squarely fall within the definition of all these sections and therefore, the conviction and sentence is properly recorded.

5. I have considered these submissions. As rightly submitted by the learned counsel for the Applicant, the deposition of the victim, who is examined as PW.2, is important. She has stated that her date of birth was 28/02/1997. In 2014 she knew one 'Y', who was her friend and she was residing in the neighbourhood. The learned counsel pointed out that 'Y' and 'Y's' husband 'R', who were the accused No.2 and 3, were absconding and their trial was separated.

6. PW.2 has further deposed that the present Applicant was a friend of 'R' and 'Y'. Hence, he used to visit 'R's' house. They developed friendship. She has clearly deposed that on 06/04/2014 she herself had asked the Applicant to marry her. The Applicant had replied that he would marry her after some time. He told her that he intended to co-habit with her. On the

next day, at about 04.00 p.m. when P.W.2's brother was not at home, she went to Market-Yard to meet the Applicant. At that time, she again told the Applicant that she intended to marry the Applicant and intended to reside with him and hence she had left her home. At that time, the Applicant had told her to go home and that he would see as to what could be done. On the next day, again she went to Market-Yard to meet the Applicant. She has further deposed that the Applicant sold his gold rings and obtained Rs.15,000/-. They then made a phone call to 'R'. He informed that he was residing at Shrirampur and therefore, on 10/04/2014 P.W.2 and the Applicant went to Shrirampur to the room of 'R'. They stayed there upto 21/04/2014. In the meantime, her mother had lodged the complaint. Therefore, the police were searching for them. On 21/04/2014, the police officers of Bharati Vidyapeeth Police Station came to Shrirampur and took the victim back to Pune. The Applicant was arrested. Her evidence clearly shows that P.W.2 herself was insisting that the Applicant should take some steps to take her with him and they should stay together. It was her own insistence. Therefore, the learned counsel for the Applicant is absolutely right in

submitting that it was P.W.2 who had left on her own free will with the Applicant. The Applicant had not taken any undue advantage of the situation. In fact, on some occasions, he tried to reason out with her so that she returned home, but instead of that, the victim insisted on going with him. Thus, it appears that the Applicant is not at fault and therefore, the sentence imposed on him is definitely harsh and excessive. In this view of the matter, the Applicant deserves to be released on bail during pendency of his Appeal.

7. Hence, the following order :

ORDER

- (i) During pendency and final disposal of the Criminal Appeal No.645 of 2025, the Applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.5,000/- (Rupees Five Thousand only).
- (ii) Interim Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)