

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 215 OF 2025
WITH
INTERIM APPLICATION NO. 868 OF 2025
IN
CRIMINAL APPEAL NO. 215 OF 2025

Pooja Kiran Gharat ...Appellant

Versus

The State of Maharashtra and Ors. ...Respondents

WITH
CRIMINAL APPEAL NO. 216 OF 2025
WITH
INTERIM APPLICATION NO.870 OF 2025
IN
CRIMINAL APPEAL NO. 216 OF 2025

Danish Abdulla Raheman Malik ...Appellant

Versus

The State of Maharashtra and Ors. ...Respondents

Mr. Pradeep M. Patil i/b P. B. Gole, for the Appellants/Applicants in both the Appeals/ Interim Applications.

Ms. Shilpa Gajare, APP, for the Respondent No.1-State.

Mr. C. K. Pendse, for the Respondent No.2 in Cri. Appeal No. 215 of 2025 and IA No. 868 of 2025.

Ms. Komal Sinha, for the Respondent No.2 in Cri. Appeal No. 216 of 2025 and IA No. 870 of 2025.

CORAM: R. M. JOSHI, J.

DATED: 17th JANUARY 2026

PC:-

INTERIM APPLICATION NO. 868 OF 2025
AND
INTERIM APPLICATION NO.870 OF 2025

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1. At the outset, learned Counsel for the Appellants seeks deletion of Respondent Nos. 2 and 3; i.e., the original Accused Nos. 1 and 2 from the array of Respondents. Amendment be carried out forthwith.

2. These Interim Applications are for enlargement on bail by the original accused Nos. 1 and 2 in Spl. (POCSO) Case No. 14 of 2022 whereby applicant/accused No.1-Danish Abdulla Raheman Malik was convicted for the offences punishable under Sections 340 r/w 34, 341, 376(2)(j)(l)(n) of the Indian Penal Code ("IPC") and under Sections 3 P/u/sec. 4, u/sec. 5(j)(ii), 5(k) P/u/sec.6 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO") and applicant/accused No. 2-Pooja Kiran Gharat was convicted for the offences punishable under Sections 376(2)(j)(l)(n) r/w 109 and 366A, 340 r/w 34, 341 of the Indian Penal Code ("IPC") and under Sections 5(j)(ii), u/sec. 5(k) r/w 17 of the Protection of Children from Sexual Offences Act, 2012 ("POCSO")

3. Learned Counsel for the applicants/appellants submits that the entire case of the prosecution rests upon the fact that the victim was threatened to subject herself to sexual intercourse with accused No.1 on the basis of her photographs being taken with one boy. It is his submission that no such evidence is placed on record by the prosecution before the Trial Court. It is his further submission that there is delay in lodging of the First Information Report, so also, the DNA test does not implicate the applicant/accused No.1 in the said crime. It is his submission that during the course of the trial the accused were on bail and

considering no possibility of Appeals being heard in short period time, so also, having regard to the fact that there is reasonable chances of success of the applicants/appellants in the Appeals, they be enlarged on bail. The applicants/appellants have no criminal history.

4. Learned APP as well as learned Counsel for the respondent No.2 opposed the Applications, firstly on the ground that the victim is not only minor but is also a mentally disabled person. It is submitted that there is absolutely no evidence to indicate that there was any reason for the victim to falsely involve accused in this crime, one of whom is a friend of the victim. It is further argued that it is settled position of law that on the basis of the sole statement of the victim, conviction can be recorded.

5. There cannot be any dispute made with regard to the propositions sought to be canvased by the counsel for Respondent No.2 that conviction of an accused can base upon the sole testimony of the victim which is of sterling quality. Similarly, in order to enable the applicants/appellants to seek bail during the pendency of the Appeals, they will have to make out a *prima facie* case of reasonable chance of success in the Appeals.

6. Herein the case the prosecution has come out with a specific case with regard to the victim being forced to sexual intercourse on the basis of her photographs with one boy. Admittedly, no such photograph is placed on record. The basis for compelling her to subject herself to the sexual intercourse has not been

established before the Trial Court. Apart from this, the DNA test report absolves the applicant/accused No.1 from the paternity test. The victim has denied the relationship with any other person. In such case doubt is created with her version in view of the fact that DNA report does not support case of prosecution. It is pertinent to note that as per the case of the prosecution, the victim was taken by applicants/accused Nos. 1 and 2 to a cottage. There is no evidence even to indicate the victim was seen even with these accused persons. It is further admitted fact that CCTV footage was available at the relevant place, which has not been collected as admitted by the Investigating Officer.

7. Having regard to the aforesaid facts, it can be said that the applicants/appellants have reasonable chance of success in the Appeals. The Appeals are not likely to be heard in short time. They have no criminal history. They are not likely to flee from justice. Hence, the following order.

ORDER

- (a) The Applicants/Appellants be enlarged on bail on furnishing P.R. bond of Rs.15,000/- each with one surety in the like amount.
- (b) The Applicants/Appellants not to contact the victim or her family members in any manner whatsoever.

(c) The Applicant/Accused No.1 is directed not to enter the jurisdiction of Taluka-Alibag till decision of the present Appeal.

(d) Any breach of aforestated condition shall result into forthwith cancellation of bail.

8. In view of the above, Interim Applications stand disposed of.

9. It is clarified that the above observations are made on prima facie consideration of the material on record and the same shall not bind the parties during the final hearing of the Appeals.

(R. M. JOSHI, J.)