

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

**INTERIM APPLICATION NO. 284 OF 2020
WITH
INTERIM APPLICATION NO. 285 OF 2020
IN
CRIMINAL APPEAL NO. 298 OF 2020**

Vijay Kumar Sabjit Gaud	... Applicant/Appellant
V/s.	
The State of Maharashtra	... Respondent

Mr.P.R. Tiwari i/b. Mr. A. M. Saraogi for Applicant/Appellant.
Mr.S.S. Hulke, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 7th October 2020.

PC. :

Heard Mr.Tiwari, learned counsel for the applicant/appellant and
Mr.Hulke, learned A.P.P. for the respondent-State.

2. These are applications for suspension of sentence and for releasing the applicant on bail respectively.

The applicant is convicted under Sections 6 and 10 of *The Protection of Children from Sexual Offences Act, 2012* (for short, “POCSO Act”) and is sentenced to suffer maximum rigorous imprisonment for 10 years and to pay a total fine of Rs.2,000/- by the learned Special Judge under POCSO Act, Gr. Mumbai in POCSO Case No. 31 of 2014 by its Judgment and Order dated 30th September 2019.

3. Perusal of record would indicate that, Mr.Suresh More (PW-4), an independent witness to the prosecution case has narrated a different version as told to him by the mother of prosecutrix (PW-1). The prosecutrix (PW-1) and her elder sister (PW-2) has deposed about penetrative sexual assault on the prosecutrix, however, PW-4 with whom the mother and the prosecutrix had immediately confided after the alleged assault, has narrated different version, which is of lessor gravity.

4. Learned counsel for the appellant submitted that, the appellant has undergone about 3 years of pre-trial incarceration and after pronouncement of impugned Judgment and Order, he has been immediately taken into custody. He submitted that, as of today, the appellant has undergone about 4 years of actual incarceration. He submitted that, the date of incident is 29th November 2013. This Court by its Order dated 9th February 2015 was pleased to release applicant on bail and the applicant was released from jail in November 2016 after complying with the necessary formalities. He further submitted that, when the applicant was on bail, there is no report of his violating the conditions of bail imposed by the Court. He further submitted that, the applicant has already deposited fine amount and if not deposited till date, the applicant will deposit the same before his actual release from jail. The said statement is accepted.

In view of the above, the applicant can be released on bail.

5. Hence, the following Order :-

- (i) The applicant be released on bail in POCSO Case No. 31 of 2014 arising out of C.R. No. 406 of 2013 registered with Ghatkopar Police Station, Mumbai on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- (ii) After his release from jail, the applicant shall attend Ghatkopar Police Station on every first Monday of the month between 10:00 am and 12:00 noon and mark his presency.
- (iii) Before his actual release from jail, the applicant shall furnish his place of residence where he intends to reside after his release on bail and also his mobile number, if any.
- (iv) The applicant shall not contact the prosecutrix and any other witness, and also not to threaten or pressurize them.

6. Applications are allowed in the aforesaid terms.

7. This Order will be digitally signed by the Personal Assistant of this Court. All the concerned will act on production by fax or e-mail of a digitally signed copy of this Order.

[A.S. GADKARI, J.]

Omkar S.
Kumbhakarn

Digitally signed
by Omkar S.
Kumbhakarn
Date:
2020.10.07
15:35:37 +0530