

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

**INTERIM APPLICATION NO. 1367 OF 2020
IN
CRIMINAL APPEAL NO. 454 OF 2020**

Sukhvindarsingh Singarasingh Dudhral
@ Sidhu @ Sukhi
V/s.

... Applicant/Appellant

The State of Maharashtra & Anr.

... Respondents

Mr.Shantanu Kadam i/b. Mr.Gaurav Parkar for Applicant/Appellant.
Mr.S.S. Hulke, A.P.P. for Respondent No.1-State.

**CORAM : A.S. GADKARI, J.
DATE : 9th December 2020.**

PC. :

This is an application for suspension of sentence and releasing the applicant on bail.

2. Heard Mr.Kadam, learned counsel for the applicant and Mr.Hulke, learned A.P.P. for the respondent No.1-State.

3. The applicant is convicted under Section 354, 354-A of the Indian Penal Code and for the offence committed under Section 7 punishable under Section 8 of the the Protection of Children from Sexual Offences Act, 2012 (for short, "POCSO Act") and is sentenced to suffer maximum rigorous imprisonment of 3 years and to pay a fine of Rs.20,000/-, in default of payment of fine to further suffer simple imprisonment for 3 months by the

learned Extra Joint District and Sessions Judge, Raigad-Alibaug in Special (POCSO) Case No. 25 of 2020 by its Judgment and Order dated 31st October 2020.

4. Learned counsel for the applicant submitted that, the applicant had seen prosecutrix chit-chatting with a boy by name Ganesh and had informed accordingly to her father. The prosecutrix had therefore grudge against the applicant and has implicated him in the present crime. He on instructions submitted that, the applicant has already deposited fine amount in the Registry of the Trial Court. He further submitted that, there are no antecedents at the discredit of the applicant.

5. Perusal of testimony of prosecutrix would indicate that, in para No.3 of her cross-examination, vital omissions have been brought on record by the applicant. *Prima-facie*, it appears that, the alleged act of outraging modesty of the prosecutrix is an omission. It therefore prima-facie appears that, the allegations against the applicant are not based on cogent evidence.

The sentence imposed upon the applicant is a short term sentence. The possibility of hearing the present Appeal on its own merits in near future is remote.

6. In view of the above, the sentence imposed upon the applicant can be suspended and the applicant can be released on bail.

Hence, the following Order :-

- (i) During the pendency of the present Appeal, the substantive sentence imposed upon the applicant is suspended.
- (ii) The Applicant be released on bail in Special (POCSO) Case No. 25 of 2020 on his furnishing PR. bond of Rs.15,000/- with one or two local sureties in the like amount.
- (iii) After his release from Jail and during the pendency of the present Appeal, the applicant shall attend Kharghar Police Station, Navi Mumbai on every first Monday of every 3rd Month between 10:00 am and 12:00 noon. The applicant thus shall attend Kharghar Police Station 4 times in a year during the pendency of the present Appeal.
- (iv) If the applicant commits two consecutive defaults in complying with condition No.(iii) above, in that event, the prosecution will be at liberty to file an application for cancellation of bail.
- (v) Applicant shall not contact the victim and/or the other witnesses in the present crime.
- (vi) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.

7. Application is allowed in the aforesaid terms.

[A.S. GADKARI, J.]

Omkar S.
Kumbhakarn
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by Omkar S.
Kumbhakarn
Date: 2020.12.09
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