

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**14 CRIMINAL APPLICATION NO. 2604 OF 2021
IN
APEAL/560/2021**

1. Vishal Vaijinath Chaudhari
Age; 19, years, Occ; Education,
R/o; Tongaon, Tq. and Dist. Aurangabad.
2. Meerabai Vaijinath Chaudhari,
Age; 40 years, Occ; Education,
R/o; Tongaon, Tq. And Dist. Aurangabd. ...Applicants

VERSUS

1. The State of Maharashtra
Through its Police Station, Karmad,
Tq. & Dist. Aurangabad. ...Respondent

...
Advocate for Appellants : Mr. Harshal Prakash Randhir
APP for Respondent-State : Mrs.G.L.Deshpande
...

CORAM : N.R. BORKAR , J.

DATE : 15th NOVEMBER, 2021.

P. C. :

1. This is an application under Section 389 of the Code of Criminal Procedure (for short 'Cr.P.C.') for suspension of substantive sentence and to release the applicants on bail.
2. Applicant No. 1 came to be convicted for the offence punishable under Sections 354-A (2), 354-B, 354-D (2) and 341 of

the Indian Penal Code (for short "I.P.C.") and under Section 12 of the Protection of Children from Sexual Offences Act (for short "POCSO") Act and sentenced to suffer rigorous imprisonment up to three years.

3. Applicant No. 2 came to be convicted for the offences punishable under Section 17 of the POCSO Act and she is also sentenced to suffer rigorous imprisonment for three years.

4. I have heard the learned counsel for the applicants and the learned APP for the respondent-State.

5. Learned counsel for the applicants submits that the trial Court failed to appreciate the evidence on record and arrived at the wrong findings. It is submitted that there is delay in lodging F.I.R. It is submitted that the applicants were on bail during trial and they did not misuse the liberty granted to them. It is submitted that considering short term of sentence, it be suspended and the applicants be released on bail, or else appeal which is already admitted will become infructuous.

6. On the other hand, the learned APP for Respondent-State submits that the applicants are involved in serious crime of outraging the modesty of two minor girls. It is submitted that considering the nature of the offences, the substantive sentence may not be suspended.

7. It appears that alleged incident took place prior to seven months of lodging of F.I.R. Considering this fact and the fact that the applicants were on bail during trial, I am inclined to suspend the substantive sentence and release them on bail. Hence following order is passed :

ORDER

- a. Application is allowed.
- b. Substantive sentence imposed by the trial Court on the applicant No. 1.Vishal Vaijinath Chaudhari and applicant No. 2.Meerabai Vaijinath Chaudhari, vide impugned judgment and order, is suspended and the applicants are released on bail on their executing P.R. bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) each with one surety in the like amount.
- c. Bail before trial Court.

**(N.R. BORKAR)
JUDGE**