

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

**919 CRIMINAL APPLICATION NO. 3160 OF 2021
IN
APEAL/659/2021**

**APPASAHEB @ BANDU SAKHARAM SHINDE
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr.Hange Rajendra G.
APP for Respondent-State : Mrs. G.L.Deshpande
...

CORAM : N.R. BORKAR , J.

DATE : 22nd DECEMBER, 2021.

P. C. :

1. This is an application under Section 389 of the Criminal Procedure Code (for short "Cr.P.C.") for suspension of sentence and to release the applicant on bail.

2. The applicant came to be convicted for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act (for short "POCSO") Act, and sentenced to suffer R.I. for a period of 2 years and to pay fine of Rs. 500/-, in default to suffer R.I. for 1 month.

3. I have heard the learned counsel for the applicant and the learned A.P.P. for the Respondent-State.

4. The learned counsel for the applicant submits that the

trial Court has failed to appreciate the evidence on record in its correct perspective and arrived at a wrong finding. It is submitted that the applicant was on bail during the trial and he did not misuse the liberty granted to him. Considering short term of sentence, it be suspended during pendency of appeal and the applicant may be released on bail.

5. On the other hand, the learned A.P.P. for respondent-State submits that the applicant is convicted for serious offence of sexual assault. It is submitted that considering the nature of offence, substantive sentence may not be suspended.

6. Admittedly the applicant was on bail during trial. Considering this fact and short term of sentence, I am inclined to suspend the substantive sentence and to release the applicant on bail. Hence following order is passed :

ORDER

- a. Application is allowed.
- b. Substantive sentence imposed by the trial Court is suspended and the applicant is released on bail on furnishing P.R. bond in the sum of Rs. 25,000/- (Rs. Twenty Five Thousand) with one surety in the like amount.
- c. Bail before the trial Court.

(N.R. BORKAR)
JUDGE