

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
INTERIM APPLICATION NO. 1202 OF 2021  
IN  
CRIMINAL APPEAL NO. 335 OF 2021**

|                                   |                |
|-----------------------------------|----------------|
| Tohim Amin Latkar                 | ...Applicant   |
| Versus                            |                |
| The State of Maharashtra and Anr. | ...Respondents |

Mr. Kedar J. Patil for the Applicant.

Mr. S.V.Gavand, A.P.P for the Respondent No.1-State.

Ms. Manisha Devkar appointed as an Amicus Curiae for the Respondent No.2.

**CORAM : REVATI MOHITE DERE, J.**  
**DATE : 3<sup>rd</sup> MAY, 2021**  
***(Through Video Conferencing)***

**P.C. :**

1. Heard learned Counsel for the parties.
  
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.

3. The applicant, vide judgment and order dated 10/03/2021 passed by the learned Special Judge (POCSO), Ichalkaranji, District Kolhapur, in POCSO Special Case No.11 of 2017, has been convicted and sentenced as under :-

- for the offence punishable under Section 306 of the Indian Penal Code to suffer rigorous imprisonment for 10 years and to pay fine of Rs.50,000/-, in default to undergo further rigorous imprisonment for 1 year;
- for the offence punishable under Section 354(D)(1) of the Indian Penal Code to suffer rigorous imprisonment for 2 years and to pay fine of Rs.5,000/-, in default, to undergo further rigorous imprisonment for 3 months;
- for the offence punishable under Section 506 of the Indian Penal Code, to suffer rigorous imprisonment for 1 year and to pay fine of Rs.1,000/-, in default, to undergo further rigorous imprisonment for 1 month;
- for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012, to suffer rigorous imprisonment for 2 years and to pay fine of Rs.5,000/-, in default, to

undergo further rigorous imprisonment for 3 months;

All the substantive sentences were directed to run concurrently.

4. Learned Counsel for the applicant submits that considering the evidence adduced by the prosecution, no offence either under Section 306 much less under Section 354(D)(1) of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012, or Section 506 of the Indian Penal Code is disclosed as against the applicant. He submits that the learned Judge has erred in concluding that the applicant demanded sexual favour from the victim girl only because he allegedly told the victim girl that 'if she did not give him the teddy bear, then see what he will do'. He submits that the victim girl committed suicide not because of the harassment meted out by the applicant, but as her parents had reprimanded her. He submitted that the words allegedly uttered by the applicant "see what I will do." would not constitute an offence under Section 354(D)(1) of the Indian Penal Code, in the absence of any material on record to show that the applicant demanded any sexual favour from the victim girl. He submitted that the applicant was on bail pending trial and that he has not abused or misused the liberty granted to him. He submits that in fact, the evidence on record shows that the victim girl's father did

not like his daughter i.e. the victim girl talking to the applicant on phone and hence she committed suicide. He submits that no suicide note has been left by the victim girl. He further submits that the FIR was not only lodged belatedly, but even the cause for suicide mentioned in the FIR, is for unknown reasons.

5. Having heard learned Counsel for the applicant, learned APP for the State and the learned Counsel for the Respondent No.2, the applicant has prima facie, made out a case for suspension of his sentence and enlargement on bail.

6. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions :-

**ORDER**

- i) The applicant be released on cash bail in the sum of Rs.25,000/-, for a period of eight weeks;
- ii) The applicant shall within the said period of eight weeks, furnish P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in

the like amount;

iii) The applicant shall not contact or threaten the witnesses or any person concerned with the case;

iv) The applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till his appeal is finally disposed of;

v) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

vi) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

7. The High Court Legal Services Committee to pay the fees as per Rules, to Ms.Manisha Devkar, learned appointed Advocate, who has espoused the cause of the respondent No.2.

8. Copy of this order be forwarded to the High Court legal Services Committee, for information and necessary action.
9. The application is accordingly disposed of.
10. All concerned to act on the authenticated copy of this order.

**REVATI MOHITE DERE, J.**