

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

***INTERIM APPLICATION NO. 1118 OF 2021
IN
CRIMINAL APPEAL NO. 304 OF 2021***

Surendra @ Chotu Sito Yadav	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr. Prabhanjay R. Dave a/w Mr. Deepak Gautam for the Applicant

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent No.1–State

None for the Respondent No. 2

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
WEDNESDAY, 30th JUNE 2021

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 the appeal.

3 The applicant, along with other co-accused, vide judgment and order dated 30th January 2021 passed by the learned District Judge-7 and Special Judge (POCSO), Thane, in Special Case (POCSO) No. 6 of 2018, has been convicted and sentenced as under :

- for the offence punishable under Section 366-A r/w Section 34 of the Indian Penal Code, to suffer rigorous imprisonment for 5 years and to pay fine of Rs.1,000/- each, in default of payment of fine, to suffer further rigorous imprisonment for 1 month;
- for the offence punishable under Section 370-A r/w Section 34 of the Indian Penal Code to suffer rigorous imprisonment for 5 years and to pay fine of Rs.1,000/- each, in default of payment of fine, to suffer further rigorous imprisonment for 1 month;

Both the sentences were directed to run concurrently.

The applicant has been acquitted of other offences.

4 Learned counsel for the applicant submits that the applicant is in custody since his arrest on 9th October 2017. He submits that the applicant has undergone about 3 years and 10 months

of the imprisonment. He submits that even otherwise, the applicant has a good case on merits. He submits that sentences of two other co-accused in this case have been suspended and they are released on bail.

5 Perused the papers. It is not in dispute that the applicant is in custody since 9th October 2017 and has undergone more than 50% of the sentence imposed on him i.e. about 3 years and 10 months. The appeal has been admitted by a separate order passed today. The sentence imposed is a short term sentence and the appeal is not likely to be heard in near future. The applicant has no antecedents.

6 Accordingly, the application is allowed and the applicant's sentence is suspended and she is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions:

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two local sureties in the like amount;

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

iii) 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;

iv) 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 applicant's bail.

7 The application is disposed of accordingly.

8 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.