

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

**INTERIM APPLICATION NO. 248 OF 2020
IN
CRIMINAL APPEAL NO.80 OF 2020**

Akshay Rangrao Patil ... Applicant
/Appellant

Versus

The State of Maharashtra & Anr. ... Respondent

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Mr. Manoj Mohite Sr. Advocate a/w Mr. Harshad Bhadbhade i/b Ms. Swati Khot, Advocate for the Applicant/Appellant in I.A.

Mr. S. R. Agarkar, APP for the Respondent No.1 – State.

Mr. Amit Gharate, Advocate for Complainant/Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATE : 4th AUGUST, 2021.

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No.80 of 2020, preferred by the applicant challenging Judgment and order dated 30th December, 2019 passed by the learned Special Judge Raigad-Alibag, convicting the applicant for offences under Section 376(2)(f) of Indian Penal Code (for short “IPC”) and Sections 3, 4 & 6 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’). The maximum sentence of imprisonment

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imposed against the applicant is for a period of 10 years.

2. Learned counsel for the applicant submitted that the applicant was aged around 23 years at the time of incident. Whereas, the victim girl was aged around 15 years & 7 months. The evidence on record would indicate that the relationship was consensual. The victim has referred to the incident of physical relationship which had occurred on three occasions. The victim did not disclose the incidents to any other person. The victim had admitted that she was intending to marry with accused. The applicant was on bail during trial. He is in custody for a period of about 3 years and 3 months.

3. Learned APP submitted that the victim was minor. Consent is immaterial.

4. Learned counsel for the complainant/victim submitted that the applicant/accused has been sentenced to imprisonment for 10 years. The learned Sessions Judge had granted bail to the applicant during the trial, after his application was rejected by this Court. The victim was minor. Her consent is immaterial. The applicant was granted temporary bail and during the said period he was found in the vicinity of victim. N.C. complaint was lodged against him.

5. In rejoinder learned counsel for the applicant submits that it is not the case that applicant had approached the victim. To take care of apprehension of victim/complainant, the applicant is willing to stay out of jurisdiction of Khandeshwar Police Station.

6. I have perused the notes of evidence. The applicant/accused was residing at the same building on the second floor. The incident had occurred in the house of applicant. The evidence of victim girl would indicate that on three occasion there was incident of physical relationship. She was intending to marry with the applicant/accused. She was in physical relationship with accused from January 2015 to June 2015. She did not disclose these incidents to anybody. She was under fear. The evidence discloses that there were incidents of physical relationship. The applicant was on bail during trial. He has undergone custody for a period of about 3 years. Considering these aspects, on certain terms and conditions sentence of imprisonment can be suspended.

7. Hence, I pass the following order:

ORDER

- (i) Interim Application No. 248 of 2020 is allowed;
- (ii) During pendency of Criminal Appeal No.80 of 2020 preferred by applicant, sentence of imprisonment awarded

vide Judgment and order dated 30th December, 2019 passed by learned Special Judge, Raigad-Alibaug in Special POCSO Case No. 56 of 2015 is suspended and the applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

(iii) The applicant shall stay out of jurisdiction of Khandeshwar Police Station till further order.

(iv) The applicant shall attend the trial Court once in six months.

(v) Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)