

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1239 OF 2021
IN
CRIMINAL APPEAL NO. 358 OF 2021

Avadhraj Jitbahadur Pal	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr. Karl Rustomkhan i/b Mr. Vaibhav Jagtap for the Applicant.

Mr. S.V.Gavand, A.P.P for the Respondent-State.

Ms. Devyani Kulkarni appointed as an *Amicus Curiae* for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.
DATE : 3rd 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 17/03/2021 passed by the learned Special Judge under POCSO, Greater Mumbai, in POCSO Special Case No.658 of 2019, has been convicted and sentenced as under :-

- for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012, to suffer rigorous imprisonment for 3 years and to pay fine of Rs.500/-, in default to undergo further simple imprisonment for 10 days;
- for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012, to suffer rigorous imprisonment for 6 months and to pay fine of Rs.500/-, in default, to undergo further simple imprisonment for 10 days;

All the substantive sentences were directed to run concurrently.

From the fine amount, compensation of Rs.10,000/- were directed to be paid to the victim girl.

4. It appears that the applicant was on bail, pending trial and that he has not abused or misused the liberty granted to him. Even post his conviction, his sentence was suspended to enable the applicant to file an appeal.

5. The sentence awarded is a short term sentence. The appeal has been admitted by a separate order passed on 23/04/2021. The same is not likely to be heard in the immediate near future. It also appears that the applicant has no antecedents.

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 enlarged on bail on furnishing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount;
- ii) The applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till his appeal is finally disposed of;
- iii) The applicant shall not contact or threaten the victim, witnesses or any person concerned with the case;
- iv) 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;

v) 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.Devyani Kulkarni, 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.