

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1276 OF 2021
IN
CRIMINAL APPEAL NO. 378 OF 2021

Harishkumar Parasram Lamba	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Ms. Ashwini N. Sawant for the Applicant.

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

Ms. Shraddha Sawant 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 01/04/2021 passed by the Special Judge under POCSO, Greater Mumbai, in POCSO Special Case No.526 of 2015, has been convicted and sentenced as under :-

- for the offence punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012, to suffer rigorous imprisonment for 5 years and to pay fine of Rs.20,000/-, in default to undergo further rigorous imprisonment for 3 months;
- for the offence punishable under Section 354 of the Indian Penal Code to suffer rigorous imprisonment for 1 year and to pay fine of Rs.5,000/-, in default, to undergo further rigorous imprisonment for 2 months;

All the substantive sentences were directed to run concurrently.

4 It appears that the applicant was on bail, pending trial and that he has not abused or misused the liberty granted to him. Learned Counsel for the applicant submits that the allegations are false and baseless and that there are discrepancies in the evidence of the victim girl and her aunt i.e. the first informant. The allegations as against the applicant are that when the victim girl would go to his house, he would inappropriately touch her. Learned Counsel for the applicant submits that the applicant was living

with his wife in the same house and that the victim girl would frequently visit the applicant's house whenever she visited her grandmother. The applicant is aged about 61 years. The sentence awarded is a short term sentence. The appeal has been admitted by a separate order passed today in the aforesaid appeal. The same is not likely to be heard in the immediate near future.

5. 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.20,000/-, 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.20,000/-, with one or two sureties in the like amount;
- iii) 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;

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

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.

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

7. Copy of this order be forwarded to the High Court legal Services Committee, for information and necessary action.

8. The application is accordingly disposed of.
9. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.