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

***CRIMINAL INTERIM APPLICATION NO.1325 OF 2021
IN
CRIMINAL APPEAL NO. 404 OF 2021***

Shankar Natha Shingade	...Applicant
Versus	
The State of Maharashtra and Anr.	...Respondents

Mr. Avinash Fatangare i/b Mr. Mahendra V. Shingade, for the Applicant.

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

Ms. Shraddha Sawant, appointed Advocate for the Respondent No.2.

CORAM : REVATI MOHITE DERE, J.

DATE : 11th JUNE, 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 7th April 2021, passed by learned Additional Sessions Judge, Pune, in Special Case (POCSO) No. 394 of 2017 has been convicted and sentenced as under:-

- for the offence punishable under Section 8 of Protection of Children from Sexual Offences Act, to suffer rigorous imprisonment for 5 years and to pay fine of Rs.5,000/-, in default of payment of fine, to suffer simple imprisonment for 2 months;
- for the offence punishable under Section 354-A(1)(i) of Indian Penal Code, to suffer rigorous imprisonment for 3 years and to pay fine of Rs.1,000/-, in default of payment of fine, to suffer simple imprisonment for 1 month.

4. Learned Counsel for the applicant submits that the allegations as against the applicant are false and baseless. He submits that the case as against the applicant was concocted, as the applicant's wife had expressed suspicion of theft, on the victim's mother and brother. He submits that the evidence on record shows that the applicant was falsely implicated only after an NC was lodged by the applicant's wife, of theft. He further submits that the applicant was on bail, pending the trial and that he has not abused or misused the liberty granted to him.

5. Learned APP as well as the learned appointed advocate for the respondent No.2 oppose the application.

6. It is not in dispute that the applicant was on bail pending trial and that he has not abused or misused the liberty granted to him. Having heard learned counsel for the parties and having perused the evidence of the victim girl i.e. PW 2 and the other evidence on record, the appellant has *prima facie*, made out a case for suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.

7. Accordingly, 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 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.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

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

REVATI MOHITE DERE, J.