

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

**INTERIM APPLICATION NO. 1727 OF 2021
IN
APPEAL NO. 540 OF 2021**

Altaf Husain Karam Husain Shaikh ..Applicant

v/s.

The State of Maharashtra ..Respondent/s

Mr. Jagidsh Shetty i/b. Ayub Shaikh for the Applicant /Appellant .
Mrs.G.P.Mulekar, APP for the Respondent-State.

**CORAM : ANUJA PRABHUDESSAI, J.
DATED : JULY 19, 2021.**

P.C.

1. This is an application under Section 381 Cr.P.C. filed by the Applicant for suspension of sentence imposed on him by the learned Judge, Special Court (POCSO), Gr. Bombay, in Special Case No.620 of 2015 for offence under Section 4 of Prevention of Children from Sexual Offence Act, 2012 and Section 363 of IPC. By the impugned judgment the Applicant has been sentenced to undergo rigorous imprisonment for 7 years and to pay fine of Rs.1000/- i.d. to undergo simple imprisonment for one year, and

to undergo rigorous imprisonment for one year and to pay fine of Rs.500/- for offence under Section 363 IPC I.d. to undergo simple imprisonment for 15 days.

2. Learned Counsel for the Applicant states that the Applicant was on bail during pendency of the trial and that he has not misused his liberty. He further submits that the Applicant has been taken into custody on 5.4.2021 and is still in jail.

3. I have perused the records and Considered the statements advanced by the learned Counsel for the Applicant and the learned APP for State .

4. The allegations against the Applicant are that on 4.9.2015 at about 15.35 hours, the Applicant committed rape on a minor (R) and also tried to kidnap her minor sister (Victim A). The evidence of victim (R)prima facie indicates that the Applicant had inserted his finger in her anus and that he had tried to kidnap her sister (victim A) who at the relevant time was two years of age. Though the material on record indicates that victim (R) was referred to medical examination, the medical reports are not on record. The other neighbors who had allegedly caught the Applicant have not been examined.

5. The Applicant was on bail during pendency of trial and it is not in dispute that he has not misused the liberty. The maximum sentence imposed against the Applicant is 7 years. Considering the present situation arising from Covid-19 pandemic, and the pendency of appeals, the matter is not likely to be taken up for hearing in the immediate near future.

6. Considering the above facts and circumstances, this is a fit case to suspend the sentence pending disposal of the appeal on merits and release the Applicant on bail on the following terms and conditions:

- i) The application is allowed.
- ii) The execution of sentence imposed in Pocso Special Case No.620 of 2015 vide judgment dated 05.04.2021, is suspended till disposal of the appeal on merits, on the Applicant furnishing fresh bail bond in the sum of Rs.25,000/- (Rupees Twentyfive Thousand Only) with one or two solvent sureties in the like amount, to the satisfaction of the learned Judge, Special Court (POCSO), Gr. Bombay.
- iii) The applicants shall not contact the complainant and his daughter, the victims (R) and (A), in any manner.

iv) The Applicant shall report to the trial Court, once in six months on the day/date specified by the trial Court, till the disposal of the appeal.

v) The applicant shall keep the trial Court informed of his current address and mobile/contact numbers and or change of residence of mobile details, if any, from time to time;

. Application is accordingly disposed of.

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(ANUJA PRABHUDESSAI, J.)