

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

**CRIMINAL APPEAL NO. 560 OF 2021
WITH
INTERIM APPLICATION NO. 1775 OF 2021
IN
CRIMINAL APPEAL NO. 560 OF 2021**

Arunkumar @ Rajesh Kumar Jogendra Bhagat Appellant
v/s.

The State of Maharashtra and anr. Respondents

Mr. Aditya Lasaria i/b. Mr. Zaid Qureshi for the Appellant.

Mr. Ajay Patil, APP for the State.

Ms. Devyani Kulkarni for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th OCTOBER, 2021.

P. C. :-

ORDER IN CRIMINAL APPEAL NO. 560 OF 2021 :-

. Heard. **Admit.** Call for the record and proceedings. Paper book to be filed within a period of six months. Learned APP waives service on behalf of Respondent No.1. Ms. Devyani Kulkarni, learned advocate is appointed from Legal Aid Panel to represent the Respondent No.2.

ORDER IN INTERIM APPLICATION NO. 1775 OF 2021 :-

2. At the outset, learned APP states that in compliance with the

order dated 28/07/2021, date of the today's hearing was intimated to the Respondent No.2. Since Respondent No.2 is not present and not represented by any counsel, Ms. Devyani Kulkarni, learned advocate from Legal Aid Panel is appointed to represent the Respondent No.2.

3. Heard Mr. Aditya Lasaria, learned counsel for the Applicant, Mr. Ajay Patil, learned APP for the State and Ms. Devyani Kulkarni, learned counsel for Respondent No.2. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

4. By this Application, filed under Section 389(1) of Cr.P.C., the Applicant has sought suspension of substantive sentence imposed by judgment dated 31/03/2021 in Special (POCSO) Case No.51/2019. By the impugned judgment, the learned Special Judge (POCSO), Pune has held the Applicant guilty of offences under Section 8 and 12 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 354-A, 354-D of the Indian Penal Code.

5. The maximum sentence imposed against the Applicant is of three years. The Appeal is already admitted. The sentence is a short term

sentence. Considering the large pendency of the cases and present situation arising from COVID-19 pandemic, it will not be possible to take up the Appeal for final hearing in immediate future. It is also stated that the Applicant was on bail during trial and he had not misused the liberty. Considering the above facts and circumstances and also in view of the nature of accusations and the evidence in support thereof, in my considered view, this is a fit case for suspension of substantive sentence pending hearing of the Appeal. Hence, the Interim Application is allowed on following terms and conditions :-

(a) The substantive sentence imposed by judgment dated 31/03/2021 in Special (POCSO) Case No.51/2019 is suspended pending hearing of the Appeal.

(b) The Applicant is ordered to be released on bail on furnishing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one or two sureties in the like amount to the satisfaction of the Trial Court ;

(c) The Applicant shall report to the trial Court once in six months on the day/date specified by the trial Court, till the

Appeal is finally disposed of ;

(d) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile details, if any, from time to time ;

(e) 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 Interim Application stands disposed of in above terms.

**PREETI
H JAYANI**

Digitally signed
by PREETI H
JAYANI
Date: 2021.10.12
14:26:11 +0530

(SMT. ANUJA PRABHUDESSAI, J.)