

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

**INTERIM APPLICATION NO. 1368 OF 2020
IN
CRIMINAL APPEAL NO.455 OF 2020**

Vijay Shankar Irmal ... Applicant

Versus

The State of Maharashtra & Anr. ... Respondents

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Mr. Harshad Bhadbhade, Advocate for the Applicant.

Mr. Prashant P. Jadhav, Advocate for Respondent No.2.

Mr. S. R. Agarkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 23rd JULY, 2021

PER COURT:

1. This is an application for suspension of sentence. The applicant has been convicted for the offences under Section 354-A, 323, 506 of Indian Penal Code (for short “IPC”) and Sections 9(f) r/w Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’). The maximum sentence imposed is five years.

2. Learned counsel for the applicant submitted that during the period of trial, the applicant was granted anticipatory bail by the Sessions Court. He has undergone period of about eight months in custody. Appeal may not come up for hearing

immediately. There are discrepancies in evidence. The applicant has good case on merits.

3. Learned counsel for respondent No.2 submits that the victim was subjected to sexual assault by the applicant. The victim had stopped to going school after the incident. The victim was molested by accused. Bail may not be granted.

4. The applicant has undergone custody of eight months. The applicant was on bail during the trial. The appeal may not come up for hearing immediately. The defence of applicant is that prosecution has not proved age of victim. Teachers used to attend school at 9.30 a.m. There is improvement in evidence. Considering these aspects, the sentence can be suspended.

5. Hence, I pass the following order:

ORDER

- (i) Interim Application No. 1368 of 2020 is allowed;
- (ii) During pendency of Criminal Appeal No. 455 of 2020, sentence of imprisonment awarded by impugned Judgment and order dated 9th November, 2020 passed by Learned Special Court, Ratnagiri in Sessions Special Case No. 12 of 2018 is suspended and the applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;

- (iii) The applicant shall attend the trial Court once in three months and mark his attendance.
- (iv) The applicant shall not contact the victim in any manner.
- (v) Interim Application stands disposed of accordingly.

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(PRAKASH D. NAIK, J.)