

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

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**INTERIM APPLICATION NO.1879 OF 2021
IN
CRIMINAL APPEAL NO.337 OF 2021**

Mohammad Jararali Lalmohammad ...Applicant

Versus

The State of Maharashtra and Anr. ...Respondents

....

Mr. Subir Sarkar i/b. Mr. Madan Gupta for the Applicant

Mr. S.V. Gavand, APP for the Respondent-State.

Ms Savita Yadav for Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 5th OCTOBER, 2021.

P.C.:-

This is an application under Section 389 of the Code of Criminal Procedure, 1973 for suspension of substantive sentence imposed by judgment dated 02/03/2021 in POCSO Special Case No.443 of 2016 and to enlarge the Applicant on bail.

2. Heard learned counsel for the Applicant, learned APP for the Respondent No.1-State and learned counsel for Respondent No.2.

3. The Applicant has been held guilty of offence under Section 354 of the IPC and Section 10 of the Protection of Children from Sexual

Offences Act, 2012 and has been sentenced to undergo rigorous imprisonment for five years i/d to undergo rigorous imprisonment for two months.

4. The sentence is a short term sentence. The appeal is of the year 2021 and is already admitted. Considering the large pendency and also considering the present situation arising due to Covid 19 pandemic, it will not be possible to hear the appeal in immediate future. Moreover, the Appellant was on bail during trial and he has not misused the liberty.

5. Considering the above facts as well as the nature of accusations, the application is allowed on following terms and conditions:-

- (i) The substantive sentence imposed vide judgment dated 02/03/2021 in POCSO Special Case No.443 of 2016 is suspended pending disposal of the appeal;
- (ii) The Applicant is ordered to be released on bail on furnishing PR bonds in the sum of Rs.15,000/- with one or more sureties in the like amount;
- (iii) The Applicant shall report to the Trial Court, once in three months on the day/date specified by the Trial

Court, till the 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.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)