

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

**INTERIM APPLICATION NO. 1935 OF 2021
IN
CRIMINAL APPEAL NO. 634 OF 2021
WITH
CRIMINAL APPEAL NO. 634 OF 2021**

Chandrakant Sudam Koli Applicant/Appellant
v/s.
The State of Maharashtra
(Nehru Nagar Police Station) and anr. Respondents

Mr. Malhar Kadam for the Applicant/Appellant.
Ms. P.N. Dabholkar, APP for the State.
Ms. Manisha Devkar for Respondent No.2.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 09th SEPTEMBER, 2021.

P. C. :-

ORDER IN INTERIM APPLICATION NO. 1935 OF 2021 :-

. This is an Application under Section 389(1) of the Code of Criminal Procedure for suspension of substantive sentence imposed by judgment dated 08/07/2021 passed by the learned Special Judge under P.O.C.S.O Act, Greater Mumbai in POCSO Special Case No.111/2019.

2. By the impugned judgment, the learned Special Judge has held

the Appellant guilty of offences punishable under Section 12 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and Section 509 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for one year and to pay fine of Rs.15,000/- in default to undergo rigorous imprisonment for three months in respect of offence under Section 12 of POCSO Act and simple imprisonment for six months and to pay fine of Rs.5,000/- in default to suffer simple imprisonment for one month for offence under Section 509 of the Indian Penal Code.

3. Heard Mr. Malhar Kadam, learned counsel for the Appellant/Applicant, Ms. PN. Dabholkar, learned APP for the State and Ms. Manisha Devkar, 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. The crime against the Applicant was registered pursuant to the first information report (Exhibit – 6) lodged by PW1, the mother of the victim. The case of the prosecution is that on 24/07/2018, the victim who was about 13 years of age, was returning from her school by BEST bus which was plying on route No.432. It is stated that the Applicant

who was the conductor on the said bus sat next to her and subjected her to obscene sexual innuendo thus causing sexual harassment within the meaning of Section 11 of the POCSO Act. The Trial Court, upon considering the evidence of the complainant and the victim, has held the Applicant guilty and has convicted and sentenced him as stated above. The maximum sentence imposed is of one year. Considering the large pendency of old matters and the present situation arising from COVID-19 pandemic, the hearing and disposal of the Appeal will take considerable time. Moreover, the Applicant was on bail pending trial and he has not misused the liberty. Considering the above facts and circumstances and the nature of the allegations, in my considered view, this is a fit case for suspension of substantive sentence pending hearing of the Appeal and to enlarge the Applicant on bail.

5. Hence, the Interim Application is allowed on following terms and conditions :-

(a) The Applicant is ordered to be released on bail on furnishing P.R. Bond in the sum of Rs.10,000/- (Rupees Ten Thousand) with one or two sureties in the like amount to the satisfaction of the Trial Court ;

(b) The Applicants 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 ;

(c) 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 ;

(d) 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.

ORDER IN CRIMINAL APPEAL NO. 634 OF 2021 :-

7. Heard. **Admit.** Ms. P.N. Dabholkar, learned APP waives service on behalf of Respondent No.1. Ms. Manisha Devkar, learned counsel waives service on behalf of Respondent No.2. Call for the record and proceedings. Paper book to be filed within a period of six months.

PREETI
H JAYANI

Digitally signed by
PREETI H JAYANI
Date: 2021.09.14
15:48:26 +0530

(SMT. ANUJA PRABHUDESSAI, J.)