

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 04 OF 2021

ALONG WITH

INTERIM APPLICATION NO. 05 OF 2021

IN

CRIMINAL APPEAL NO. 01 OF 2021

Ahamar Sharafatali Siddiki

... Applicant/Appellant

V/s.

The State of Maharashtra & Anr.

... Respondents

Mr.Fakhruddin Khan for Applicant/Appellant.

Mr.Amit Palkar, A.P.P. for Respondent No.1-State.

CORAM : A.S. GADKARI, J.

DATE : 4th January 2021.

PC. :

These are applications for suspension of sentence and releasing the applicant on bail.

2. Heard Mr.Khan, learned counsel for the applicant and Mr.Palkar, learned A.P.P. for the respondent-State.

3. The applicant is convicted under Section 354-D(2) of the Indian Penal Code, 1860; under Section 11(iv) (v) read with Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, “POCSO Act”) and under Section 66(D)(E), 67 (A) (B) of the Information Technology

Act, 2000 and is sentenced to suffer maximum rigorous imprisonment of 2 years and to pay a fine of Rs.20,000/- by the learned Extra Joint District and Sessions Judge, Raigad-Alibag in Special (POCSO) Case No. 27 of 2020 by its Judgment and Order dated 11th December 2020.

4. Learned counsel for the applicant submitted that, during the pendency of the appeal the applicant was released on bail and he has not breached any of the conditions imposed upon him. He further submitted that, the applicant has already deposited the entire fine amount in the Registry of the Trial Court on 11th December 2020 and has annexed receipts of the same to Application No.05 of 2021.

5. The sentence imposed upon the applicant is a short term sentence. The possibility of hearing the present Appeal on its own merits in near future is remote.

6. In view of the above, the sentence imposed upon the applicant can be suspended and the applicant can be released on bail.

Hence, the following Order :-

- (i) During the pendency of the present Appeal, the substantive sentence imposed upon the applicant is suspended.
- (ii) The Applicant be released on bail in Special (POCSO) Case No. 27 of 2020 on his furnishing PR. bond of Rs.15,000/- with one or two local sureties in the like amount.

- (iii) During the pendency of the appeal, the applicant shall attend Nagothane Police Station, District Raigad on every first Monday of every 3rd Month between 10:00 am and 01:00 pm and shall mark his presency. The applicant thus shall attend Nagothane Police Station 4 times in a year during the pendency of the present Appeal.

It is made clear that, this condition of attendance will not be relaxed during the pendency of the present appeal, as it has been imposed after taking into consideration the fact that the applicant is situated at Lucknow, Uttar-Pradesh has committed the present offence with the prosecutrix who is residing at Nagothane, Taluka Pen, District Raigad.

- (iv) If the applicant commits two consecutive defaults in complying with condition No.(iii) above, in that event, the prosecution will be at liberty to file an application for cancellation of bail.
- (v) Applicant shall not contact victim or her relatives/ witnesses in the present crime.

7. Applications are allowed in the aforesaid terms.

[A.S. GADKARI, J.]

Omkar S.
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