

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 771 Of 2021
WITH
INTERIM APPLICATION NO. 2292 OF 2021
IN
CRIMINAL APPEAL NO. 771 OF 2021

Israr Mehmood Pawaskar .. Appellant/Applicant

Versus

The State of Maharashtra & Ors. .. Respondents

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Mr. Rushikesh Kale i/by Mr. V. V. Purwant - for the
Applicant/Appellant.

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

Ms. Savita Yadav (Legal Aid) – For Respondent No. 2

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CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 21st OCTOBER, 2021

PC:-

1. Heard. Admit. Call for the record and proceedings. Paper book to be filed within a period of six month.

2. Mr. S. V. Gavand, learned APP waives service of notice on behalf of the State.

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INTERIM APPLICATION NO. 2292 OF 2021

3. This is an application under Section 389 of the Code of Criminal Procedure, 1973 for suspension of substantive sentence imposed by judgment dated 03.09.2021 passed by learned District Judge -1 and Special Judge (POCSO Act), Thane in Special (POCSO Act) Case No. 200 of 2014 and to enlarge the Applicant on bail.

4. Heard Mr. Rushikesh Kale, learned counsel for the Applicant and Mr. S. V. Gavand, learned APP for the State and Ms. Savita Yadav, learned counsel for Respondent No. 2. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

5. By the impugned judgment, the Applicant has been held guilty of offence under Section 354-A of IPC and Section 7 and 8 of Protection of Children from Sexual Offences (POCSO) Act. He has been sentenced to undergo rigorous imprisonment for three year with fine of Rs. 10,000/-, in default, to undergo simple imprisonment of three months.

6. The Appeal has been admitted. The sentence is short term sentence. Considering the large number of pending appeals as well as the present situation arising from Covid – 19 pandemic, it will not be possible to take up the appeal for final hearing in immediate future.

7. Considering the above facts so also considering the nature of accusation against the Applicant, in my considered view this is a fit case to suspend the substantive order of sentence pending disposal of the appeal. Hence, the application is allowed on following terms and conditions :-

- (i) The Application is ordered to be released on bail on furnishing PR bonds in the sum of Rs. 50,000/- with one or two sureties in the like amount.
- (ii) 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.
- (iii) 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.

(iv) 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.

8. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)