

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

**INTERIM APPLICATION NO.2391 OF 2021
IN
CRIMINAL APPEAL NO.813 OF 2021
WITH
CRIMINAL APPEAL NO.813 OF 2021**

Dhanaji Vishwas Koli ...Applicant
Versus
The State of Maharashtra and Anr. ...Respondents

....
Mr. Anand S. Patil for the Applicant.
Mr. S.V. Gavand, APP for Respondent No.1-State.
Ms Savita Yadav for Respondent No.2.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 25th OCTOBER, 2021.

P.C.:-

Learned APP states that date of today's hearing was intimated to Respondent No.2 and that she was requested for an advocate from legal aid panel.

2. Ms Savita Yadav, learned counsel, who is on the legal aid panel is appointed to represent Respondent No.2. Learned counsel for the Appellant undertakes to furnish copy of the appeal memo to the counsel for the Respondent No.2.

3. By this application filed under Section 389 of the Code of

Criminal Procedure, 1973, the Applicant has sought suspension of sentence imposed by judgment dated 20/09/2021 passed by the learned Additional Sessions Judge, Special Court (POCSO), Kolhapur, in POCSO Special Case No.34 of 2018 and to release the Applicant on bail.

4. Heard Mr. Anand Patil, learned counsel for the Applicant, Mr. S.V. Gavand, learned APP for Respondent No.1-State and Ms Savita Yadav, learned counsel for Respondent No.2. Perused the records and considered the submissions advanced by learned counsel for the respective parties.

5. By the impugned judgment, learned Judge has held the Applicant guilty of offence under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) and under Sections 354-1 and 354-D of the IPC. He has been sentenced to undergo rigorous imprisonment for two years with fine of Rs.10,000/- for offences punishable under Sections 354-A of IPC and 8 of the POCSO Act i/d. to undergo rigorous imprisonment for six months. He has been sentenced to undergo rigorous imprisonment for two years and to pay fine of Rs.10,000/- for offences punishable under Sections 354-D of the IPC and 12 of the POCSO Act i/d. to undergo rigorous imprisonment for six months. Substantive sentences are ordered to run concurrently.

6. The sentence is a short term sentence. The appeal is already admitted. There are number of old appeals pending before this Court and considering the present situation arising due to Covid-19 pandemic, it will not be possible to take up this appeal for hearing in immediate future. The Applicant was on bail during pending trial and he has not misused the liberty.

7. In view of above, and also considering the accusations against the Applicant and the evidence in support thereof, in my considered view this is a fit case for suspension of sentence pending disposal of the appeal. Hence, the application is allowed on the following terms and conditions:-

- (i) The substantive sentence imposed vide judgment dated 20/09/2021 in POCSO Special Case No.34 of 2018 on the Applicant 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.10,000/- with one or two sureties to the like amount.
- (iii) The Applicant shall not interfere with the victim in any manner.
- (iv) 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.

(v) 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.

(vi) 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.)