

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

**CRIMINAL APPEAL NO. 839 OF 2021
WITH
INTERIM APPLICATION NO. 2452 OF 2021
WITH
INTERIM APPLICATION NO. 2453 OF 2021
IN
CRIMINAL APPEAL NO. 839 OF 2021**

Surya Anbalgan Harijan Appellant
v/s.
The State of Maharashtra and anr. Respondents

Mr. D.H. Kumthekar for the Appellant.
Mr. PH. Gaikwad, APP for the State.
Mrs. Megha Bajoria for Respondent No.2.

**CORAM: SMT. ANUJA PRABHUDESSAI, J.
DATED : 26th OCTOBER, 2021.**

P. C. :-

ORDER IN CRIMINAL APPEAL NO. 839 OF 2021 :-

. Heard. **Admit.** Call for the Record and Proceedings. Filing of paper book is dispensed with. Mr. PH. Gaikwad, learned APP waives service on behalf of Respondent No.1. Ms. Megha Bajoria, learned counsel waives service on behalf of Respondent No.2.

ORDER IN INTERIM APPLICATION NOS.2452/2021 & 2453/2021 :-

2. Learned APP states that Respondent No.2 has been duly notified

and that she has requested for an advocate from Legal Aid Panel. He has placed on record a report. Ms. Megha Bajoria, learned advocate is appointed to represent the Respondent No.2.

3. These are the Applications under Section 389 of Cr.P.C. filed by the aforesaid Applicant for suspension of sentence imposed by judgment dated 13/08/2021 in POCSO Special Case No.536 of 2019 passed by the learned Special Judge under P.O.C.S.O. Act, Greater Mumbai and bail.

4. Heard Mr. D.H. Kumthekar, learned counsel for the Applicant, Mr. P.H. Gaikwad, learned APP for the State and Mrs. Megha Bajoria, learned APP for the State. I have perused the records and considered the submissions advanced by the learned counsels for the respective parties.

5. The Applicant herein was charged for offence under Section 354, 354(A) and 448 of the Indian Penal Code and Section 10 of Protection of Children from Sexual Offences (POCSO) Act, 2012. The learned Judge has sentenced the Applicant for a maximum period of imprisonment of three years. The sentence imposed is a short term

imprisonment. Considering the large pendency of the cases and also the present situation arising from Covid-19 pandemic, it will not be possible to take up the Appeal for hearing in immediate future. In view of the above and also considering the nature of the accusations and evidence in support thereof, this is a fit case for suspension of substantive sentence pending hearing of the Appeal. Hence, the Interim Application is allowed on following terms and conditions :-

(a) Execution of substantive sentence imposed against the Applicant by judgment dated 13/08/2021 in POCSO Special Case No.536 of 2019, is suspended pending hearing of the Appeal ;

(b) The Applicant shall be released on bail on furnishing P.R. Bonds in the sum of Rs.15,000/- with one or two solvent sureties in the like amount to the satisfaction of the Trial Court ;

(c) The Applicant shall report to the Trial Court once in two months on the day/date specified by the Trial Court, till the Appeal is finally disposed of ;

(d) 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 ;

(e) 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 application seeking cancellation of bail.

6. Interim Application Nos.2452/2021 & 2543/2021 stand disposed of accordingly.

PREETI
H JAYANI

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PREETI H JAYANI
Date: 2021.10.28
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(SMT. ANUJA PRABHUDESSAI, J.)