

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

**CRIMINAL APPEAL (ST.) NO. 15894 OF 2021
WITH
INTERIM APPLICATION NO. 2509 OF 2021
WITH
CRIMINAL APPEAL (ST.) NO. 15894 OF 2021**

Sufiyan Abdul Khan Appellant
v/s.
The State of Maharashtra and anr. Respondents

Mrs. Anjali Awasti for the Appellant.
Mr. P.H. 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 (ST.) NO.15894 OF 2021 :-

. Heard. **Admit.** Call for the Record and Proceedings. Filing of paper book is dispensed with. Mr. P.H. 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 NO. 2508 OF 2021 :-

2. This is an Application under Section 389 of Cr.P.C. for suspension

of substantive sentence imposed by judgment dated 29/11/2018 in POCSO Special Case No.1165/2013. By the impugned judgment, the learned Special Judge under P.O.C.S.O. Act, Greater Bombay has held the Applicant guilty of offence under Section 376 of the Indian Penal code and for offence under Section 8 of the Protection of Children from Sexual Offences (POCSO) Act. He has been sentenced to undergo simple imprisonment for three years and to pay fine of Rs.55,000/- in default to suffer simple imprisonment for 30 days.

3. Learned counsel for the Applicant states that subsequent to the conviction and after the victim had attained the age of majority, the Applicant and the victim have got married and they are residing happily at their matrimonial home. By order dated 22/10/2021, this Court had directed the learned APP to verify the authenticity of the marriage certificate and confirm the statement made by the Applicant. Learned APP has placed on record the report stating that the marriage certificate is genuine. It is further stated that the Applicant and the victim are married. Mrs. Megha Bajoria, learned counsel appointed to represent the Respondent No.2 upon interaction with the Respondent No.2 who is present before the Court, confirms that the Applicant and the victim were friendly with each other and that the victim after

having attained the age of majority, has married the Applicant.

4. Considering the above facts and circumstances, the Interim Application is allowed on following terms and conditions :-

(a) Execution of substantive sentence imposed against the Applicant by judgment dated 29/11/2018 in POCSO Special Case No.1165/2013, is suspended pending hearing of the Appeal ;

(b) The Applicant be released on provisional cash bail in the sum of Rs.10,000/- for a period of four weeks ;

(c) The Applicant shall within the said period of four weeks, furnish PR. Bonds in the sum of Rs.10,000/- with one or two solvent sureties in the like amount to the satisfaction of the Trial Court ;

(d) 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 ;

(e) 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 ;

(f) 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.

5. Parties to act on an authenticated copy of this order.

6. Considering that the Appellant and the victim are now married, Appeal be listed on final hearing board in the week commencing from **22/11/2021.**

PREETI H
JAYANI

Digitally signed by
PREETI H JAYANI
Date: 2021.10.27
20:21:00 +0530

(SMT. ANUJA PRABHUDESSAI, J.)