

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

**CRIMINAL APPEAL NO. 852 OF 2021
WITH
INTERIM APPLICATION NO. 2520 OF 2021
IN
CRIMINAL APPEAL NO. 852 OF 2021**

Madan Sawalaram Prajapati ... Appellant/Applicant
v/s.
The State of Maharashtra & Anr. ... Respondents

Mr. Tapan Thatte i/b. Mr. Amar Patel, for the Appellant/Applicant.
Mr. N. B. Patil, APP for the State-Respondent No.1.
Ms. Devyani Kulkarni, for Respondent No.2.
Mr. Milind Phadatare, A.PI., Nerul Police Station, present.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 06th DECEMBER, 2021**

P.C.

. The Applicant herein has filed this application under Section 389 of Criminal Procedure Code for suspension of substantive sentence imposed by Judgment dated 6th September 2021 passed by the learned Additional Sessions Judge, Thane in Special Case (POCSO) No.200 of 2015 and release of the applicant on bail.

2. Heard Mr. Tapan Thatte, learned Counsel for the Applicant, Mr.

N. B. Patil, learned APP for the State and Ms. Devyani Kulkarni, learned Counsel for Respondent No.2. I have perused the record and considered the submissions advanced by the learned Counsel for the respective parties.

3. By the impugned Judgment, the Applicant has been held guilty of offences under Section 354 of Indian Penal Code and Section 9(m) punishable under Section 10 of the Protection of Children from Sexual Offence Act, 2012 (for short the 'POCSO Act'). The Applicant has been sentenced to undergo imprisonment of five years with fine of Rs.2,000/-, in default to undergo R.I. for three months for offence punishable under Section 10 of POCSO Act. No separate sentence is imposed in respect of offence under Section 354 of I.P.C.

4. The sentence is of short term imprisonment. Considering the large number of cases pending and the present situation arising from COVID-2019 Pandemic, final hearing of the appeal will take considerable time. Moreover, the Applicant was on bail, pending trial and has not misused the liberty.

5. In view of above and considering the nature of accusation, in my considered view, this is a fit case for suspension of the substantive

sentence pending disposal of the appeal. Hence, the application is allowed on following terms and conditions;

ORDER

- (i) The substantive sentence imposed on the Applicant by Judgment dated 6th September 2021 in Special Case (POCSO) No.200 of 2015, Thane is suspended pending disposal of the appeal.
- (ii) The Applicant is ordered to be released on bail on furnishing P.R. bonds in sum of Rs.15,000/- (Rupees Fifteen Thousand Only) with one or two sureties to the like amount.
- (iii) The Applicant shall not interfere with the prosecutrix.
- (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.

(v) The application stands disposed of.

6. Parties to act upon an authenticated copy of this order.

(ANUJA PRABHUDESSAI, J.)

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