

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

**INTERIM APPLICATION NO. 2682 OF 2021
IN
CRIMINAL APPEAL NO. 907 OF 2021**

Nivrutti Devram Kalbhor ..Applicant

v/s.

The State of Maharashtra ..Respondent/s

Mr. Pranav Pokale i/b. Aditya Bagal for the Appellant .
Mr. P.H.Gaikwad APP for the Respondent-State.
Mr. Harshad Sathe for the Respondent No.2.

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

P.C.

1. By this application filed under Section 389 Cr.P.C. the Applicant has sought suspension of substantive sentence imposed vide judgment dated 28.09.2021 in POCSO Special Case No. 548 of 2018. By the impugned judgment the Applicant has been held guilty of offences under Section 7 and 11 and has been sentenced to undergo rigorous imprisonment for a period of 3 years with fine of Rs.35,000/- I.d. to suffer simple imprisonment for 4 months for offence under Section 7 , and to suffer rigorous imprisonment for

a period of 1 year with fine of Rs.15000/- I.d. to suffer simple imprisonment for 2 months for offence under Section 11 of the POCSO Act. He has been further held guilty of offence under Section 354A, however no separate sentence has been passed in view of Section 42 of POCSO Act.

2. Heard learned Counsel for the Applicant, learned APP for the State and learned Counsel for the Respondent No.2. Perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

3. The sentence imposed against the Applicant is a short term imprisonment. Appeal is already admitted. The appeal is of the year 2021 and is not likely to come up for final hearing in the near future due to large pendency of old cases.

4. In view of the above, and also considering the nature of acquisition and the material in support thereof, in my considered view this is a fit case for suspension of sentence pending the disposal of the appeal. Hence the application is allowed on the following terms and conditions:-

- (i) Substantive sentence imposed against the Applicant by judgment dated 28.09.2021 in POCSO Special Case No. 548

of 2018 is suspended pending hearing of the appeal;

ii) The Applicant is ordered to be released on bail on furnishing PR. Bond in the sum of Rs.10,000/- (Ten Thousand Only) with one or two sureties in the like amount, to the satisfaction of the Trial Court;

iii) 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;

iv) 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.

v) 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.

Application is accordingly disposed of.

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signed by
PRASANNA P
SALGAONKAR
Date:
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(ANUJA PRABHUDESSAI, J.)