

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

**INTERIM APPLICATION NO.2642 OF 2021
IN
CRIMINAL APPEAL NO.894 OF 2021
WITH
CRIMINAL APPEAL NO.894 OF 2021**

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Sushil Govind Parab

...Applicant

Versus

The State of Maharashtra

...Respondent

....

Mr. Rushikesh Patil i/b. Mr. Pradeep Dalvi for the Applicant.

Mr. N.B. Patil, APP for Respondent No.1-State.

Ms Priyanka Chavan for Respondent No.2 (appointed)

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 29th NOVEMBER, 2021.

P.C.:-

Respondent No.2 is duly served. Learned APP has placed on record a report stating that Respondent No.2 has requested for an Advocate from Legal Aid Panel. Ms Priyanka Chavan, learned counsel, who is on Legal Aid Panel is appointed to represent Respondent No.2 in appeal as well as in application. Applicant to furnish copy of the appeal as well as the application to learned counsel for Respondent No.2.

2. By this application filed under Section 389 of the Code of Criminal Procedure, 1973 the Applicant has sought suspension of

substantive sentence imposed vide judgment dated 28/09/2021 passed by the learned Additional Sessions Judge, Special Court (POCSO), Sindhudurg in Special Case (POCSO) No.27 of 2019 (Old special Case No.31 of 2018) and to release the Applicant on bail.

3. By the impugned judgment learned Judge has held the Applicant guilty of offence punishable under Sections 451, 354, 354-A (1)(i) of the IPC and Section 9(m) r/w 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). The Applicant is sentenced to undergo rigorous imprisonment for 5 years with fine of Rs.5,000/- i/d to undergo simple imprisonment for one month for offence under Section 10 of the POCSO Act and rigorous imprisonment for six months with fine of Rs.1,000/-i/d. to undergo simple imprisonment for 15 days for offence under Section 451 of the IPC. No separate sentence is passed for the offence under Sections 354, 354-A(1)(i) of the IPC in view of Section 42 of the POCSO Act.

4. The Applicant has been sentenced to undergo maximum term of rigorous imprisonment for five years. The appeal is already admitted. Considering the large pendency of the cases and the present situation arising from Covid-19 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 facts and considering the nature of accusations against the Applicant, this is a fit case for suspension of substantive sentence pending disposal of the appeal. Hence, the application is allowed on following terms and conditions:-

- (i) The substantive sentence imposed on the Applicant vide judgment dated 28/09/2021 in Special Case (POCSO) No.27 of 2019 (Old special Case No.31 of 2018) is suspended pending disposal of the appeal;
- (ii) The Applicant is ordered to be released on bail on furnishing bail bonds in the sum of Rs.15,000/- with one or two sureties to the like amount;
- (iii) 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.
- (iv) 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.
- (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 an application seeking cancellation of bail.

6. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)