

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

**INTERIM APPLICATION NO. 2830 OF 2021
IN
CRIMINAL APPEAL NO. 957 OF 2021**

Mr. Aakash Pyarelal Prajapati Applicant
v/s.
The State of Maharashtra & anr. Respondents

Mr. Hardik Vyas for the Applicant.
Mr. P.H. Gaikwad, APP for the State.
Mrs. Megha Bajoria for Respondent No.2 (appointed).

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 07th DECEMBER, 2021.

P. C. :-

. Learned APP has placed on record report indicating that Respondent No.2 is duly served and has requested for an advocate from Legal Aid Panel. Ms. Megha Bajoria, learned advocate is appointed to represent the Respondent No.2 in the interim application and appeal. Learned counsel for the Appellant to furnish copy of the Appeal memo and Application to learned counsel for Respondent No.2.

2. By this Application filed under section 389 of Cr.P.C., the Applicant has sought suspension of sentence imposed by judgment

dated 23/10/2021 in Special Case (POCSO) No.72/2015. By the impugned judgment, the learned Additional Sessions Judge, Borivali Division, Dindoshi, Mumbai has held the Applicant guilty of offence under section 8 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced him to undergo rigorous imprisonment for four years with fine of Rs.10,000/- in default to undergo rigorous imprisonment for six months.

3. The sentence imposed on the Applicant is a short term imprisonment. It is stated that the Applicant was on bail during trial and that he has not misused the liberty. Considering the large pendency of cases, it will not be possible to hear the Appeal finally at least in next couple of years. Hence, the sentence of imprisonment if not suspended, the challenge itself will be rendered infructuous. Hence, the Interim Application is allowed on following terms and conditions :-

(a) Substantive sentence imposed against the Applicant by judgment dated 23/10/2021 in Special Case (POCSO) No.72/2015, 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.10,000/- 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.

4. Interim Application stands disposed of accordingly.

**PREETI
H JAYANI**

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(SMT. ANUJA PRABHUDESSAI, J.)