

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 721 OF 2019
IN
CRIMINAL APPEAL NO. 1386 OF 2019**

Vijay Premjibhai Parmar
Versus
State of Maharashtra

...Applicant

...Respondent

Mr. Milan Desai i/b Mr. T.R. Patel for the Applicant.

Mr. S.V.Gavand, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.
DATE : 18th FEBRUARY, 2021

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.
3. Learned Counsel for the applicant submits that the prosecution has failed to prove that the prosecutrix was a minor at the time of the alleged incident. He submits that although PW-6 was examined by the

prosecution to prove the date of birth of the prosecutrix, the said witness produced the school record, in which the date of birth of the prosecutrix was mentioned on the basis of an earlier School Leaving Certificate. He submitted that the prosecution had not produced the earlier School Leaving Certificate on the basis of which, the date of the birth of the prosecutrix was recorded by the school authority. He further submitted that a perusal of the evidence on record shows that the relation between the prosecutrix i.e. PW-1 and the applicant were consensual. Learned Counsel relied on the certain omissions that have come on record in the evidence of PW-1 (prosecutrix). He submits that the applicant was on bail, pending trial and that he has not abused or misused the liberty granted to him.

4. The appeal has been admitted on 14/11/2019. It is not in dispute that the applicant was on bail, pending trial and has not misused the liberty granted to him. Having perused the evidence on record, applicant has made out a case for suspension of his sentence and enlargement on bail.

5. Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms and conditions :-

ORDER

- i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two local sureties in the like amount;
- ii) The Applicant shall report to the trial Court, once in two months on the day/date specified by the trial Court, till his Appeal is finally disposed of;
- iii) 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;
- iv) 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 is allowed in the aforesaid terms and is accordingly disposed of.

7. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.