

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1106 OF 2022
IN
CRIMINAL APPEAL NO.244 OF 2022**

**SATISH BHAUSAHEB MAIND
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

....
Mr. S.C. Bhosle, Advocate for the Applicant
Mr. S.P. Deshmukh, APP for the Respondent No.1/State
Mr. Sandip Rathod, Advocate for Respondent No.2
....

CORAM : SHRIKANT D. KULKARNI, J.

DATE : 17 AUGUST, 2022

PER COURT:-

. It is an application for suspension of sentence and bail moved by the applicant/appellant.

2. Heard Mr. S.C. Bhosale, learned counsel for the applicant/appellant, Mr. S.P. Deshmukh, learned APP for the respondent No.1/State and Mr. Sandip Rathod, learned counsel for respondent No.2/victim.

3. Mr. Deshmukh, learned APP for respondent No.1/State and Mr. Rathod, learned counsel for respondent No.2/victim strongly opposed to grant bail to the appellant by suspending the sentence. Both of them submitted that the

appellant is convicted under various sections of the Indian Penal Code coupled with the provisions of the Protection of Children from Sexual Offences (POCSO) Act, 2012. The trial court has sentenced the appellant for ten years having regard to the serious nature of offence committed by the appellant. He may not be released on bail.

4. On the other hand, Mr. Bhosle, learned counsel for the appellant submitted that during the trial, the appellant was on bail. There was affair between the appellant and the victim. The appellant has deposited fine amount of Rs.25,000/- with the trial court. There is no reason to keep the appellant behind the bars during the pendency of the appeal.

5. I have considered the submissions of the learned counsel for the appellant, learned APP for respondent No.1/State and the learned counsel for the victim. Perused the copies of depositions placed on record by the learned counsel for the appellant including the deposition of Dr. Rahul Ashok Ingale, who has examined the victim.

6. I have also perused the impugned judgment and order passed by in Special case (POCSO) No. 142 OF 2018 by the Special Judge (POCSO), Aurangabad. It is evident that the appellant came to be convicted for the offences punishable under Sections 363, 376(2)(i) of the Indian Penal Code and under Section 4 read with Section 3 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to suffer various sentences under respective penal sections. The maximum sentence awarded against the appellant is for ten years. The sentences are directed to run concurrently. The learned counsel has placed on record the copy of receipt in order to show that the appellant has deposited the fine amount of Rs.25,000/- with the trial Court. The copy of the receipt is taken on record and marked as 'X' for identification. On going through the same, it is evident that the appellant has deposited the fine amount of Rs.25,000/- with the trial Court and complied with the order passed by the Special Judge.

7. So far as the suspension of sentence is concerned, there are no extraordinary circumstances to keep the appellant behind the bars during the pendency of the appeal. It is an admitted position that the appellant was on bail

during the trial. There are no criminal antecedents against the appellant. In these circumstances, it would be just and proper to suspend the sentence and release the applicant/appellant on bail.

ORDER

- (i) The application is hereby allowed.
- (ii) The execution of substantive sentence passed against the applicant/appellant in Special Case (POCSO) No.142 of 2018 by the Special Judge (POCSO), Aurangabad is hereby suspended till final decision of the Appeal.
- (iii) The applicant/appellant shall be released on bail on his furnishing P.R. bond of Rs.25,000/- (Rupees Twenty Thousand only) with one or two sureties of the like amount on following conditions :-
 - (a) The applicant/appellant shall furnish his in detail address and Cell Number with the trial court.
 - (b) Bail before the trial court.
- (iv) The Criminal application is accordingly disposed of.

[SHRIKANT D. KULKARNI]
JUDGE