

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

917 CRIMINAL APPLICATION NO.2673 OF 2022
IN APEAL/590/2022

SADIQ YUSUF SHAIKH
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. K. B. Patel.
APP for Respondent/State: Mr. P. G. Borade.
Advocate for Respondent No.2 : Mr. Ravindra J. Nirmal. (Appointed)
...

CORAM : **SHRIKANT D. KULKARNI, J.**

DATE : 27th September, 2022.

P.C.:

. It is an application for suspension of substantive sentence and bail filed by the appellant/original accused.

2 Heard Mr. K. B. Patel, learned counsel for the appellant / applicant, Mr. Borade, learned APP for the State and Mr. R. J. Nirmal, learned appointed counsel for respondent No.2.

3 Perused the impugned judgment and order of conviction rendered by the learned Special Judge under POCSO Act in Special Case (Child Prot.) No.29 of 2016.

4 It is revealed during the course of argument that the appellant /

original accused was on bail during the trial. After conviction he has been taken into custody by the Trial Court. The Trial Court was pleased to convict the appellant/applicant for the offence punishable under Section 376(1) of the Indian Penal Code and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 and directed to undergo rigorous imprisonment for various terms. The maximum sentence awarded against the appellant / applicant is of ten years rigorous imprisonment in addition to fine amount under respective penal section. The appellant/ applicant has been acquitted of the offences punishable under Sections 363 and 366-A of the Indian Penal Code and Section 3(1)(w)(i) and (ii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. There are no criminal antecedents against the appellant/ applicant. There are no extraordinary circumstances to keep the appellant behind the bars. The appellant / applicant was on bail during the trial and as such, it would be just and proper to release the appellant / applicant on bail during the pendency of appeal by suspending the substantive sentence. There are no chances to take up this appeal for final hearing in near future.

5 Having regard to the above reasons, it is necessary to allow this application. Hence, the following order is passed:

ORDER

- I. The application is hereby allowed.
- II. The execution of substantive sentence passed by the learned Special Judge under POCSO Act in Special Case (Child Prot.) No.29 of 2016 against the applicant/accused (Sadiq Yusuf Shaikh), is hereby suspended till final decision of the appeal.
- III. The applicant shall be released on bail on his furnishing P.R. bond of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties of the like amount on following condition :

“The applicant shall furnish his in detail address with cell number before the Trial Court”
- IV. Bail before the Trial Court.
- V. Inform to the concerned Court accordingly.
- VI. Mr. R. J. Nirmal, learned counsel is appointed to espouse the cause for respondent No.2. His professional fees is qualified at Rs.5,000/-. The

Secretary, High Court Legal Services Sub Committee, Aurangabad, is requested to make payment of professional fees to Mr. R. J. Nirmal, learned appointed counsel for respondent No.2.

VII. The criminal application is accordingly disposed of.

VIII. Authenticated copy be issued.

[SHRIKANT D. KULKARNI, J.]

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