

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

**WITH CRIMINAL APPLICATION NO. 2858/2022
IN
CRIMINAL APPEAL NO.627 OF 2022**

**SANJAY @ PINTYA KALBA DHOTRE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...

Advocate for Appellant : Mr. Dhage Vaibhav B.
APP for Respondent No.1 State: Mr. S. P. Deshmukh

**CORAM : SHRIKANT D. KULKARNI, J.
DATE : 30th AUGUST, 2022**

ORDER:

1. It is an application for suspension of sentence of and bail moved by the appellant/original accused No.1.
2. Heard Mr. Vaibhav Dhage, the learned counsel for the appellant. Perused the impugned judgment and order of conviction passed by the learned Extra District Judge-1 & Additional Sessions Judge, Special (POCSO), Court, Nanded in Special (POCSO) Case No. 09/2019, whereby the applicant came to be convicted under the Indian Penal Code as well as under the various provisions of the Protection of Children from Sexual Offences Act, 2012.

3. It is revealed during the course of argument that the appellant was on bail during the trial. The maximum sentence awarded against the appellant is three years rigorous imprisonment. Mr. Vaibhav Dhage, the learned counsel for the applicant submits that the appellant has deposited the entire fine amount with the trial court. He submitted that during pendency of the appeal, the conviction has been suspended by the trial Court. He, therefore, urged to suspend the sentence till final decision of the appeal and release the appellant on bail.

4. Mr. Deshmukh, the learned APP opposed to allow this application in view of application of provisions of the POCSO Act and severity of the offences alleged against the appellant.

5. It is not in dispute that in all two accused were put on trial. Out of them, accused No.2 came to be acquitted and this accused/original accused No.1 alone came to be convicted for the various offences under the I.P. C. as well as under the provisions of the POCSO Act. Maximum sentence awarded against the appellant is of three years. The appellant/accused no.1 was on bail during the trial. He has been released on bail after suspending the sentence by the trial court. There are no extra ordinary circumstances to put the applicant behind bars during pendency of this appeal. There are no chances to take up this appeal for final hearing in near future. It would be just

and proper to suspend the sentence during pendency of the appeal and release the appellant on bail. Hence, the order:

O R D E R

- (i) The application is allowed.
- (ii) Execution of substantive sentence passed against the appellant/original accused No.1 in Special (POCSO) Case No.9 of 2019 by the learned Extra District Judge-1 & Additional Sessions Judge, Special (POCSO), Court, Nanded is hereby suspended till final decision of the appeal.
- (iii) The appellant shall be released on bail on his furnishing PR bond of Rs.20,000/- with one or two solvent sureties in the like amount on the following conditions:
 - (a) He shall furnish in detail address with Cell No. with the trial Court.
 - (b) Bail before the trial Court.
 - (c) Inform the concerned court accordingly.
 - (d) The application is accordingly disposed of.
 - (e) Authenticated copy be issued.

(SHRIKANT D. KULKARNI, J.)

JPChavan