

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

**INTERIM APPLICATION NO.1752 OF 2021
IN
CRIMINAL APPEAL NO. 1240 OF 2018**

Sachin Suresh Patole

.. Applicant/ Appellant

Versus

State of Maharashtra and Anr.

.. Respondents

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Ms.Jayashree Tripathi, Advocate for the Applicant/Appellant.

Mr.S.V. Gavand, APP for the Respondent No.1-State.

Mr.Veerdhaval Deshmukh, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATED : MAY 06, 2022.

P.C. :

The applicant is convicted vide judgment and order dated 3rd September, 2018, by Additional Sessions Judge-3, Sangli, in Special Case (POCSO) No.56 of 2016, for the offence under Section 377 of Indian Penal Code “IPC”, for short), and, Section 6 of Protection of Children from Sexual Offences Act (“POCSO Act”, for short). The judgment of conviction has been challenged by preferring Criminal Appeal No.1240 of 2018. Applicant had preferred this interim application for suspension of sentence. The applicant/appellant had contended that he may be released on temporary bail on medical ground. Vide order dated 21st January, 2022, the applicant/appellant

was directed to be released on bail on temporary period of six weeks on medical ground. While granting the said relief, this Court had taken into consideration the medical report issued by the medical officer Kolhapur Central Prison dated 17th January, 2022, which indicated that the applicant had complained of backache with tingling over hip area, weakness, unable to walk without support and difficulty to pass urine and incontinence of motion. The order dated 21st January, 2022, also indicate that the essential medical treatment can be given to the applicant at Government Medical College and Hospital, Miraj. Subsequently, the application was listed for hearing before this Court on 8th March, 2022. Discharge summary and medical case papers about the treatment given to the applicant at Kullolli hospital Vishrambag, Sangli, was produced which indicated that surgery was performed on applicant on 9th February, 2022. The applicant/appellant was advised rest for four months. It was further noted that the applicant/appellant was treated at the Government Medical College and Hospital at Miraj. It was submitted on behalf of the applicant/appellant that the applicant/appellant had visited Government Medical College and Hospital at Miraj, but, he was informed that such surgery cannot be performed at the said hospital, and, therefore, he was required to perform the surgery in private hospital. Considering the submissions, temporary bail granted to the

applicant/appellant was extended till 17th March, 2022. To place on record the reasons for not taking treatment at the Government hospital, the applicant/appellant was directed to file an affidavit. The affidavit dated 14th March, 2022, was placed on record on the next date of hearing, indicating the reasons for taking treatment at private hospital. The application was then listed for hearing on 21st March, 2022. It was directed that the applicant/appellant shall visit the Government Medical College and Hospital at Miraj, and, consult the Civil Surgeon or any Medical Officer equivalent to Civil Surgeon or any other Medical Officer as per the directions of the Civil Surgeon, who shall examine the applicant/appellant and submit the report. The application was then adjourned to 12th April, 2022 and temporary bail granted to the applicant/appellant was continued. The application was then listed on 12th April, 2022, and, it was submitted by the learned counsel for the applicant/appellant that the applicant/appellant had been the the Government Medical College and Hospital, Miraj, and, he was directed to approach Padmabhushan Vasantdada Patil Government Hospital at Sangli. Thereafter, the applicant/appellant had visited the said hospital.

2 Learned APP sought time to take instructions in that regard. Thereafter, the application was adjourned and the interim bail

was continued till today. Learned APP has tendered report submitted by the Civil Surgeon dated 29th April, 2022, which refers to the status of the health condition of the applicant. The report mentions that on 31st March, 2022, applicant was treated at Padmabhushan Vasantdada Patil Government Hospital at Sangli. He was advised to take rests from 31st March, 2022 to 30th April, 2022, and, for further treatment, he was advised to approach J.J. Hospital, as and when required. It is also mentioned that on 15th March, 2022, no treatment was given to the applicant/appellant, at Government Medical College at Miraj.

3 From the aforesaid factual aspects and the documents on record, it appears that the applicant/appellant, has already undergone surgery. He was advised to take rests. Said period is also over. The report submitted by the District Surgeon indicate that the applicant/appellant can take appropriate/proper treatment at J.J. Hospital. In this circumstances, it is not necessary to continue the bail granted to the applicant/appellant.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Interim application No.1752 of 2021, is disposed of;

- (ii) The applicant/appellant shall surrender to Kolhapur Central Prison at Kalamba, Kolhapur on 12th May, 2022 at 11:00 a.m.;
- (iii) In the event any treatment is required to be provided to the applicant, the Jail Authority shall make appropriate arrangement and the applicant shall be taken to J.J. Hospital for treatment;
- (iv) Hearing of Appeal is expedited.

(PRAKASH D. NAIK, J.)