

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

**INTERIM APPLICATION NO. 534 OF 2022
(FOR BAIL)**

IN

CRIMINAL APPEAL NO. 144 OF 2022

Shivram Vyankatesh Patkar ... Applicant/Appellant.
Vs.
The State of Maharashtra & Anr. ... Respondents.

WITH

**INTERIM APPLICATION NO. 535 OF 2022
(FOR SUSPENSION OF SENTENCE)**

IN

CRIMINAL APPEAL NO. 144 OF 2022

Shivram Vyankatesh Patkar ... Applicant/Appellant.
Vs.
The State of Maharashtra & Anr. ... Respondents.

Shri A. Karim Pathan, Advocate i/by Arbaz Agaskar for the
Applicant/ Appellant.

Shri S. V. Gavand, APP for the State.

Shri Tanveer Khan, Advocate for Respondent No. 2.

**CORAM : PRAKASH D. NAIK, J.
DATED : MARCH 24, 2022.**

P.C. :

1. Both these Applications are for suspension of sentence and grant of bail during the pendency of the Criminal Appeal No. 144 of 2022.

2. The Applicant is convicted vide judgment and order dated 5th January, 2022 for the offences punishable under section 354-A (1)(i) of Indian Penal Code and section 7 punishable u/s. 8 & 9 (m) read with section 10 of Protection of Children from

Sexual Offences Act. He is sentenced to suffer imprisonment for five years.

3. Learned Advocate for the Applicant submitted that the Applicant is aged about 82 years. He has been falsely implicated in this case. There is discrepancy in the identification of the accused. The accused was shown to the witnesses at police station and thereafter, the identification parade was conducted. The Applicant was on bail during trial. The facility of bail was not misused. The Appeal may not come for hearing within a short span of time.

4. Learned APP and learned Advocate for Respondent No. 2 submitted that although the Applicant is a senior citizen, the overact attributed to him is of serious nature. He was chased by the members of the public and apprehended immediately after the incident. There is sufficient evidence against the Applicant.

5. The trial court has imposed sentence of five years. It is a short term sentence. The Applicant was on bail during the trial. There is no adverse report about misuse of facility of bail. The Applicant is aged about 82 years.

6. Considering the submissions of both the sides, the sentence of imprisonment can be suspended. Hence, I pass following order :

ORDER

(i) Interim Application Nos. 534 of 2022 and 535 of 2022

are allowed.

(ii) The sentence of imprisonment imposed vide judgment and order dated 05th January, 2022 passed by the learned Special Judge (POCSO) & Additional Sessions Judge, Thane in Spl. Case (POCSO) No. 329 of 2018 is suspended and the Applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs. 20,000/- with one or two sureties in the like amount.

(iii) The Applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of eight weeks from the date of his release.

(iv) The Applicant shall attend the trial Court once in six months, on First Saturday of the month, till final disposal of the Appeal.

(v) In the event of two consecutive defaults in attending the trial court, the said fact may be brought to the notice of this court. In such eventuality, the prosecution will be at liberty to prefer an application for cancellation of the bail.

(vi) The Applicant shall not approach the victim.

7. Both Interim Applications stand disposed of.

(PRAKASH D. NAIK, J.)