

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

INTERIM APPLICATION NO. 795 OF 2021

IN

CRIMINAL APPEAL NO.200 OF 2021

Santosh Rambrich Kumar ...Applicant

Versus

The State Of Maharashtra And Anr. ...Respondents

Mr. Pramod G. Kathane, Advocate for the Applicant.

Mr. Vivek Arote, Advocate for Respondent No.2.

Mrs. M. M. Deshmukh, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 3rd JANUARY, 2022

PER COURT:

1. This is an application for suspension of sentence and grant of bail pending in Criminal Appeal No.200 of 2021.

2. The applicant has been convicted for the offence punishable under Section 354 of Indian Penal Code for outraging the modesty of the woman aged about 33 years. He has been sentenced to suffer imprisonment for one year and to pay fine of Rs.10,000/-.

3. Pursuant to the Judgment of conviction dated 2nd February, 2021 passed by the Special Court under the POCSO Act, the sentence was suspended by the trial Court to enable

the applicant to prefer an appeal before this Court. Thereafter, the applicant had preferred an appeal challenging the Judgment of conviction which has been admitted. Vide order dated 4th March, 2021, the order suspending the sentence passed by the trial Court was continued till the next date, even thereafter the interim order was continued.

4. Learned counsel for the applicant - appellant submits that the applicant was in custody for about one month. He has good case on merits. The appeal would not come up for hearing within short span of time.

5. Learned APP submitted that the applicant was charged for commission of offences under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') as well as Section 354 of Indian Penal Code. He had misbehaved with complainant/woman as well as minor child.

6. Learned counsel for the victim appointed through legal aid submitted that the trial Court in paragraph-16 of the impugned judgment has assigned reasons for convicting the applicant for offence punishable under Section 354 of Indian Penal Code. There is sufficient evidence to prove the charge against the applicant.

7. Vide Judgment and order dated 2nd February, 2021 the applicant has been convicted for offence under Section 354 of Indian Penal Code for outraging modesty of the lady aged about 33 years. However, he has been acquitted for offence under Section 354 of Indian Penal Code and Section 10 of the POCSO Act in respect of minor child. The appeal has been admitted. The appeal may not reach for final hearing immediately. The applicant was on bail during the trial. It is not reported that he has misused the facility of bail. The sentence was suspended by the trial Court.

8. In view of the above, this application can be allowed and the sentence imposed against the applicant can be suspended.

9. Hence, I pass the following order:

ORDER

- (i) Interim Application No. 795 of 2021 is allowed;
- (ii) During the pendency of Criminal Appeal No.200 of 2021, the Sentence of imprisonment awarded by the trial Court vide judgment and order dated 2nd February, 2021 for conviction under Section 354 of Indian Penal Code is suspended and the applicant is directed to be released on bail on same terms and conditions as awarded by the trial Court with fresh bond.

(iii) The applicant shall execute fresh bond within a period of four weeks from today.

(vi) Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)