

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

**INTERIM APPLICATION NO. 935 OF 2022
IN
CRIMINAL APPEAL NO. 281 OF 2022**

Suresh Jagannath Kadam ...Applicant/Appellant
Versus
State Of Maharashtra & Anr. ...Respondents

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Mr. Sudip Mallick i/by Mr. Harshad E. Palwe, Advocate for the
Applicant/Appellant

Mr. Arfan Sait, APP for the Respondent – State.

Ms. Priyanka Chavan, Advocate for Respondent No.2.

Mr. Ajit Patil, (PSI) Patan Police Station, Satara, Present.

CORAM : PRAKASH D. NAIK, J.
DATE : 26th APRIL, 2022.

PER COURT:

1. This is an application for suspension of sentence and grant of bail. The applicant is convicted for offences punishable under Sections 354, 354-A(ii) of Indian Penal Code (for short “IPC”) and Sections 7 punishable under Sections 8 & 9(m) punishable under Section 10 of Protection of Children from Sexual Offences Act, 2012 (for short ‘POCSO Act’) vide judgment and order dated 8th February, 2022. He has been sentenced to suffer rigorous imprisonment of 5 years for the conviction under Section 9(m) punishable under Section 10 of POCSO Act and three years for the conviction under Section 7 punishable under Section 8 of

POCSO Act.

2. The case of the prosecution is that the victim is minor girl, who had visited the backyard of the house of accused for collecting tamarind. On 6th April, 2020, the accused came there and molested her. The victim reported the incident to her father on 21st April, 2021 and thereafter First Information Report (for short 'FIR') was registered. The accused was arrested. On completing investigation, charge-sheet was filed.

3. Learned counsel for the applicant submitted that the sentence is of short term. The applicant was on bail during the trial. He has not misused facility of bail granted to him. There is delay in lodging in FIR. There are discrepancies in the evidence. The victim suffers from several omissions.

4. Learned APP submitted that there is sufficient evidence against the applicant. Specific overt act has been attributed to the applicant by the victim girl. There is no reason to discard her version. The FIR was registered immediately after the incident was informed to the complainant by victim girl.

5. Learned counsel for respondent No.2 supported the submissions of learned APP. It is submitted that, victim was aged around 11 years, 2 months. The victim has categorically stated that

the accused was involved in committing the alleged act. On account of fear the victim did not inform the incident to her father immediately on 6th April, 2021.

6. Undisputedly the Sessions Court vide order dated 21st May, 2021 granted bail to the applicant during the trial on certain conditions. There is no adverse report about misuse of the liberty granted to the applicant by granting bail. The incident had occurred on 6th April, 2021. It was reported on 21st April, 2021. The sentence is of short term. The appeal may not come up for hearing within short span of time. Considering all these aspects, the sentence of imprisonment can be suspended.

7. Hence, I pass the following order:

ORDER

- i. Interim Application No. 935 of 2022 is allowed;
- ii. Substantive sentence of imprisonment imposed vide Judgment and order dated 8th February, 2022 passed by learned Extra Jt. Additional Sessions Judge, Karad in Special Case No.40 of 2021 is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.20,000/- with one or more 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 in lieu of surety.
- iv.** The applicant shall attend the trial Court once in six months on first Saturday of the month till the final disposal of the appeal;
- v.** In the event, there are two consecutive defaults in attending the trial Court, the said fact may be brought to the notice of this Court and in such eventuality, the prosecution will be at liberty to prefer an application for cancellation of bail.
- vi.** The applicant shall not approach the victim or her family members and shall not cause any harassment to her.
- vii.** Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)