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

**INTERIM APPLICATION NO. 811 OF 2020
IN
CRIMINAL APPEAL NO. 264 OF 2020**

Sarvan Sanga Rajbhar

...Applicant

Versus

State of Maharashtra

...Respondent

None for the Applicant.

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

CORAM: PRAKASH D. NAIK, J.

DATE: 1st APRIL, 2022.

PC:-

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No. 264 of 2020.

2. The applicant has been convicted for the offence punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short, "the POCSO") and sentenced to suffer rigorous imprisonment of five years with fine of Rs. 2,000/- vide judgment and order dated 18th December, 2019. Applicant was on bail during

the trial. He was taken in custody on 18th December, 2019.

3. The appeal was filed before this Court on 18th January, 2020. Although the applicant was taken in the custody on the date of judgment of conviction, no attempts were made to pursue this appeal and application for suspension of sentence.

4. Roznama of the proceedings indicates that the appeal was listed for admission on 14th December, 2021, however, none appeared for the applicant. The Court was pleased to admit the appeal and expedite the hearing. The application for suspension of sentence was also listed on 14th December, 2021 and 18th January, 2022. However, on both these occasions, advocate representing the applicant was not present and the application was adjourned.

5. I have perused the impugned judgment and order.

6. It is noted that the applicant was sentenced to suffer imprisonment for five years. He was on bail during the

trial. He was taken into custody on the date of judgment of conviction i.e. 18th December, 2019 and apparently he continues to be in custody.

7. Learned APP in fairness has placed on record the data forwarded by Superintendent, Kolhapur Central Prison, Kalamba about actual sentence undergone by the applicant and remission accrued to him. The chart indicates that applicant is in custody for a period of 2 years 10 months 15 days and by calculating the remission the sentence completed by him is of 3 years 6 months 24 days.

8. It is pertinent to note that the applicant has been sentenced to suffer imprisonment of 5 years and has undergone substantial part of sentence.

9. On perusal of the impugned judgment, it appears that the applicant has urged good grounds challenging impugned judgment. The applicant was aged about 19 years at the time of incident.

10. In the circumstances, I pass the following order :

ORDER

- i) Interim Application No. 811 of 2020 is allowed;
- ii) During the pendency of Criminal Appeal No.264 of 2020, the sentence of imprisonment imposed vide Judgment and order dated 18th December, 2019 passed by learned Special Judge under POCSO Act, Gr. Mumbai in POCSO Case No.326 of 2016 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 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 twelve 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) Interim Application stands disposed of accordingly.

11. This order may be communicated to the applicant through Superintendent, Kolhapur Central Prison, Kalamba, Kolhapur immediately.

12. The Superintendent, Kolhapur Central Prison, Kalamba, Kolhapur shall submit a report to this Court as and when the applicant is released from prison on furnishing bail bond.

13. The appeal be listed under the caption of “compliance” on **25th April, 2022.**

(PRAKASH D. NAIK, J.)