

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

**INTERIM APPLICATION NO.1302 OF 2022
IN
CRIMINAL APPEAL NO.418 OF 2022**

Shekhar Ramprasad Pardeshi .. Applicant/Appellant
Versus
State of Maharashtra and Anr. .. Respondents

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Mr.Hitesh Patel, Advocate for the Applicant/Appellant.
Mr.Ajay Patil, APP for the Respondent No.1-State.
Mr.Veerdhawal Deshmukh, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATED : MAY 06, 2022.

P.C. :

This is an application for suspension of sentence and grant of bail during the pendency of criminal Appeal No.418 of 2022.

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2 The applicant has been convicted *vide* judgment and order dated 6th April, 2022, for offence punishable under Section 10 of POCSO Act, and, Section 354 of IPC by Special Judge under POCSO Act, in POCSO Special Case No.12 of 2021. He has been sentenced to suffer imprisonment of 5 years and one year, respectively, on each count.

3 The case of the prosecution is that the accused had

subjected the victim girl to sexual assault by touching her inappropriately.

4 Learned advocate for the applicant/appellant submitted that the applicant/appellant is in custody for the period of 16 months. The sentence of imprisonment is of short term. The version of the victim girl about the bad touch to her private part is in the nature of omission. The said version is not reflected in her statement. The omission is brought on record in the cross-examination of the victim. The applicant/appellant may put to any condition, while granting bail.

5 Learned APP submitted that the offence is of serious nature. The victim was a child. The accused has subjected her to sexual assault by taking the victim girl to his house. He relied upon the decision of the Supreme Court in the case of ***Nawabuddin Vs. State of Uttarakhan***¹. He also relied upon the observations in paragraph 10 of the said decision.

6 Learned advocate for respondent no.2 submitted that the omissions as contended by the learned counsel for the applicant/appellant has not been proved since the question relating to the said omissions are not put to the investigating officer. There is

1 AIR 2022 SCC 910

sufficient evidence against the applicant/appellant, for conviction.

7 The sentence imposed by the trial Court is of short term. i.e. 5 years. The applicant/appellant has already undergone imprisonment of 16 months. The Appeal may not be reach for hearing immediately. The decision relied upon by learned APP is indeed required to be taken into consideration. The convict therein was convicted under Section 6 of POCSO Act, by committing penetrative sexual assault.

8 Hence, I pass the following order:

:: ORDER ::

- (i) Interim Application No.1302 of 2022, is allowed;
- (ii) The sentence of imprisonment imposed by judgment and order dated 6th March, 2021, passed by the Special Judge under POCSO Act, Greater Mumbai, in POCSO Special Case No.12 of 2021, is suspended and the applicant/appellant, 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) Applicant/appellant is permitted to furnish cash bail security of Rs.20,000/-, for a period of ten weeks, in lieu of surety;
- (iv) Applicant/appellant shall attend the trial Court once in six months on first Saturday of the month, till the disposal of Appeal;
- (v) In the event there are two consecutive defaults in attending the trial Court, the said fact may be brought to notice of this Court and the prosecution is at liberty to move an application for cancellation of bail;
- (vi) Applicant/appellant shall stay out of the jurisdiction of Malbar Hill Police Station, Mumbai, till final disposal of Appeal;
- (vii) Interim Application No.1302 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)