

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

**INTERIM APPLICATION NO. 1289 OF 2021
WITH
INTERIM APPLICATION NO.1288 OF 2021
IN
CRIMINAL APPEAL NO. 387 OF 2021**

Vishwambhar Suresh Thakur ...Applicant/Appellant
Versus
The State Of Maharashtra And Anr. ...Respondents

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Mr. Shivaji K. Farakate, Advocate for the Applicant/Appellant.

Mr. Aditya Bapat, Advocate for Respondent No.2.

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

Mr. G. B. Mhaske Khadak Police Station, Pune City, Present.

**CORAM : PRAKASH D. NAIK, J.
DATE : 5th MAY, 2022.**

PER COURT:

1. Both these applications are seeking suspension of sentence and grant of bail during the pendency of Criminal Appeal No. 387 of 2021.

2. The applicant has been convicted for offence punishable under Section 12 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.8,000/-.

3. The case of the prosecution is that the victim girl was aged around 17 years. Accused had exhibited his private part to

the victim girl, by entering into her residential premises. The First Information Report (for short 'FIR') was registered. Charge-sheet was filed.

4. Learned Advocate for the applicant submitted that the applicant was on bail during trial. The facility of bail has not misused by the applicant. The incident had allegedly occurred in presence of victim's grand mother. She is not examined as witness. The maximum sentence imposed by the trial Court is of two years. The sentence of imprisonment was suspended by the trial Court on the date of conviction. The applicant has surrendered before the trial Court on 4th May 2022. The order passed by the trial Court in respect to the surrender of the applicant to custody has been produced.

5. Learned APP submitted that the accused had harassed the victim girl. He entered into her residential premises and exhibited his private part.

6. Learned Advocate for respondent No.2 submitted that the victim attributed specific role to applicant. There is cogent evidence against the applicant. The grand mother of the victim girl was not examined since she was deaf.

7. The maximum sentence imposed by the trial Court is

of two years. The applicant was on bail during the trial. He has surrendered to custody. There is no adverse report of misuse of facility of bail. The defence has urged that there are several discrepancies in the evidence adduced by the prosecution. Considering these circumstances, sentence of imprisonment can be suspended.

8. Hence, I pass the following order:

ORDER

- i.** Interim Application Nos. 1289 of 2021 and 1288 of 2021 are allowed;
- ii.** During the pendency of Criminal Appeal No.387 of 2021, the sentence of imprisonment imposed vide Judgment and order dated 29th February, 2020 passed by learned Additional Sessions Judge, Pune in Special (POCSO) Case No. 197 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 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 girl and shall not cause any harassment to the victim girl as well as her family members.

vii. Both Interim Applications stand disposed of accordingly.

(PRAKASH D. NAIK, J.)