

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY****CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1407 OF 2022****IN****CRIMINAL APPEAL NO. 462 OF 2022**

Prashant Appa Awale

.....Applicant

Vs.

The State Of Maharashtra & Anr.

.....Respondents

Mr. Ganesh Bhujbal for the Applicant.

Mrs. Sharmila Kaushik APP for the Respondent-State.

Mr. Prashant D. Patil for the Respondent No.2.

**CORAM : A. S. GADKARI, J.**

**DATE : 15<sup>th</sup> JULY, 2022.**

**P.C.:-**

This is an Application for suspension of sentence and releasing the Applicant on bail.

2 Applicant has been convicted for the offence under Section 3(a) punishable under Section 4(2) of the Protection of Children from Sexual Offences Act, 2012 (for short, "*POCSO Act*"), for the offence under Section 5(j)(ii) punishable under Section 6 of the POCSO Act and under Sections 376 and 376(3) of the Indian Penal Code (for short, "*the IPC*") and is sentenced to suffer maximum rigorous imprisonment for 20 years by the Extra Joint Additional Sessions Judge, Karad in Special Case No.6 of 2021

by its Judgment and Order dated 22<sup>nd</sup> April, 2022.

3           Mr. Bhujbal, learned Advocate for the Applicant submitted that, the Applicant was released on bail during the pendency of trial and there is no report of breach of any of the bail conditions imposed upon him. He further submitted that, the Applicant has already deposited entire fine amount in the Registry of the Trial Court.

4           It is the prosecution case that, the Applicant committed forcible sexual intercourse with the victim who was a child as per the definition of Section 2(d) of the POCSO Act. The victim thereafter became pregnant and subsequently gave birth to a baby boy.

5           Perusal of evidence available on record clearly indicates that, there is a Forensic Report/DNA Report of the Blood sample of the Applicant and the victim. In the result of Analysis in the said report, the concerned Assistant Chemical Analyser has opined that, the Applicant is excluded to be biological father of baby boy of the victim. It thus, *prima facie* appears that, the Applicant may not be the sole perpetrator of the crime alleged against him.

6           In view of the above and after taking into consideration the fact that, the Applicant was on bail during the pendency of the trial, this Court is of the opinion that, during the pendency of present Appeal the substantive sentence imposed upon the Applicant can be suspended and he can be released on bail.

5 Hence, the following Order:-

- (a) Applicant be released on bail in Special Case No.6 of 2021 arising out of C.R. No. 487 of 2020 registered with Karad Taluka Police Station, on his furnishing P.R. bond of Rs.25,000/- with one or two local sureties in the like amount.
- (b) After his release from Jail and till final disposal of present Appeal, the Applicant is directed to attend Karad Taluka Police Station, on every first Monday of the month initially for a period of one year and thereafter on every first Monday of every 3<sup>rd</sup> month, i.e. 4 times in a year.
- (c) During the pendency of the Appeal, Applicant shall not contact prosecutrix and threaten her.

6 Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)

SANJIV  
SHARNAPPA  
MASHALKAR

Digitally signed by  
SANJIV SHARNAPPA  
MASHALKAR  
Date: 2022.07.19  
17:44:04 +0530