

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

**INTERIM APPLICATION NO. 2489 OF 2022
IN
CRIMINAL APPEAL (ST) NO. 12438 of 2022**

Farukh Mukthar Shaikh

..Applicant

Versus

The State of Maharashtra & Anr.

..Respondents

Mr. Kartik S. Garg for Appellant.

Smt. M. R. Tidke, APP for State/Respondent No.1.

CORAM : SARANG V. KOTWAL, J.

DATE : 11th AUGUST 2022

PC :

1. The applicant is convicted for commission of offence punishable U/s.6 of the Protection of Children from Sexual Offences Act (for short 'POCSO') and was sentenced to suffer R.I. for 14 years and to pay a fine of Rs.15,000/- and in default to suffer R.I. for six months. He was also convicted for commission of offence punishable U/s.328 of IPC and was sentenced to suffer R.I. for 5 years and to pay a fine of Rs.1000/- and in default to suffer R.I. for one month. He was convicted for commission of offence punishable U/s.10 of POCSO and was sentenced to suffer R.I. for 5

years and to pay a fine of Rs.5000/- and in default to suffer R.I. for 3 months. He was also convicted for commission of offence punishable U/s.376 and 376(f)(i) and (n) of IPC and U/s.4 of POCSO, but in view of sentence given U/s.6 of POCSO no separate sentence was awarded under these sections. All the sentences were directed to run concurrently. Out of the fine amount, Rs.15,000/- were directed to be paid to the victim as compensation. The applicant was granted set of U/s.428 of Cr.p.c. for the period of detention undergone by him as an undertrial.

2. This is an application for condonation of delay of 3 years and 47 days in preferring Criminal Appeal. It is submitted by learned counsel for the applicant who is appointed through legal aid panel and it is also mentioned in the application memo that the impugned Judgment was passed on 01/04/2019. The applicant was in custody since 18/04/2017. There was no relative or near friend of the applicant to help and assist him. He is financially poor and does not have money to appoint an Advocate to file Appeal. Therefore, he had approached the Legal Services Committee of this court for appointment of an advocate to

represent him. After his request, the Legal Services Committee of this Court took steps to file this appeal. Therefore, there was delay of 3 years and 47 days in filing Criminal Appeal against the Judgment and order dated 01/04/2019 passed by Special Judge under POCSO Act, Greater Bombay.

3. Considering these submissions, sufficient grounds are made out to condone the delay.

4. Hence, the following order:

O R D E R

- i) The delay of 3 years and 47 days in filing Criminal Appeal against the Judgment and order dated 01/04/2019 passed by Special Judge under POCSO Act, Greater Mumbai in POCSO Special Case No.289 of 2017 is condoned.
- ii) The Criminal Appeal be processed further.

(SARANG V. KOTWAL, J.)