

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

**INTERIM APPLICATION NO.4333 OF 2022
IN
CRIMINAL APPEAL NO.1241 OF 2022**

Shashikant @ Sachin Deepak Bagul Applicant
Versus
The State of Maharashtra & Anr. Respondents

Mr. Nikhil G. Hire, Advocate for the Appellant.
Ms. M.R. Tidke, APP for the Respondent No.1-State.

**CORAM : SARANG V. KOTWAL, J.
DATE : 19th DECEMBER, 2022**

P.C. :

1. This is an application for bail pending final disposal of the applicant's appeal challenging the judgment and order dated 14.11.2022 passed by the Additional Sessions Judge, Malegaon in Sessions Case No.124/2015. The applicant was convicted for commission of the offences punishable under Section 354-D(i) of IPC and under Section 12 of the Protection of Children From Sexual Offences Act, 2012 (for short, 'POCSO Act'). The maximum sentence imposed on him was for three months besides imposition of

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fine.

2. Heard Shri Nikhil Hire, learned counsel for the appellant and Smt. M.R. Tidke, learned APP for the Respondent No.1-State.

3. Learned counsel for the applicant submitted that the applicant was arrested merely on the basis of suspicion. The applicant had not tried to contact the victim. Therefore, the ingredients of Section 354-D(i) of IPC are not made out. He submitted that the birth certificate of the victim is not proved as the person issuing the birth-certificate had no authority. Therefore, the conviction under the POCSO Act is not sustainable.

4. He further submitted that the applicant was on bail and has not misused that liberty. Even after conviction, he was granted bail for a temporary period under Section 389 of Cr.PC..

5. Learned APP opposed this application, but, she conceded that the sentence is short.

6. Considering these submissions, the points raised

by learned counsel for the applicant can be decided at the final hearing stage of his appeal. The sentence is short. The appeal is not likely to be decided within that period. Therefore, he can be granted bail during pendency of his appeal.

7. Hence, the following order :

:: O R D E R ::

- i. During pendency and final disposal of Criminal Appeal No.1241/2022, the applicant is directed to be released on bail on his furnishing P.R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- ii. The applicant shall not harass the victim directly or indirectly.
- iii. Interim Application is disposed of accordingly.

(SARANG V. KOTWAL, J.)