

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1126 OF 2023
IN
CRIMINAL APPEAL NO. 251 OF 2023

Moin @ Munnu Usman Baig ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

...
Advocate for Applicant : Mr. Rohit P. Patwardhan
APP for respondent/State : Mr. P. M. Kulkarni
Advocate for respondent no. 2 (appointed) : Ms Rani Tandale
...

CORAM : SANDIPKUMAR C. MORE, J.
DATE : 29TH SEPTEMBER, 2023

PER COURT :

1. Heard rival submissions.
2. The applicant / accused is seeking suspension of his substantive sentence of imprisonment imposed upon him by the learned Special Judge (POCSO), Beed in Special POCSO Case No. 59 of 2019 under Judgment and Order dated 23.02.2023.
3. The learned counsel for the applicant submits that the

trial Court, after awarding conviction, released the applicant/accused on bail. Moreover, this Court vide order dated 23.03.2023 has also suspended the substantive sentence of imprisonment imposed upon the applicant by way of interim relief.

4. The learned counsel for respondent no. 2 – victim strongly opposed the application and submitted that the trial Court by considering the entire material on record has finally convicted the applicant and if his sentence is suspended and he is released on bail then he may commit the similar crime. The learned APP also opposed the application on this ground only.

5. However, it is significant to note that the maximum substantive sentence of imprisonment is only of one year. Moreover, applicant has also deposited the fine amount and this Court considering the fact that the appeal is not likely to be heard in the near future, has granted interim relief of suspension of sentence. In view of the same, following order is passed.

ORDER

[i] The application is hereby allowed.

- [ii] The substantive sentence of imprisonment imposed upon the applicant by the learned Special Judge (POCSO), Beed in Special POCSO Case No. 59 of 2019 under Judgment and Order dated 23.02.2023, is hereby suspended during the pendency of this appeal.
 - [iii] The applicant/appellant be released on bail on his execution of PR and SB for Rs. 25,000/- (Rupees Twenty Five Thousand).
 - [iv] Bail before trial Court.
 - [v] The fees of learned appointed counsel for the respondent no. 2 - victim be paid as per rules.
6. Application stands disposed of accordingly.

[SANDIPKUMAR C. MORE]
JUDGE