

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1888 OF 2023
IN
CRIMINAL APPEAL (ST.) NO.5079 OF 2023**

**MUDASSAR JAFAR SHAIKH
VERSUS
THE STATE OF MAHARASHTRA & ANOTHER**

...

Mr. Sartaj Khan H. Pathan, Advocate for the applicant.
Mr. B.V. Virdhe, APP for the Respondent – State

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**CORAM : S.G. CHAPALGAONKAR, J.
(VACATION COURT)**

DATE : 17th MAY, 2023

PER COURT :

. This is an application for suspension of substantive sentence and grant of bail during the pendency of the Criminal Appeal (St.) No.5079 of 2023, challenging the judgment and order dated 09th March, 2023 passed by the Additional Sessions Judge, Sangamner in Special Case No.19 of 2017.

2. The learned advocate for the applicant would submit that vide the impugned order the applicant is convicted for the offence under Section 354A of the Indian Penal Code (in short, 'IPC') and sentenced to undergo rigorous imprisonment for the period of six months and to pay fine of Rs.7,500/-, in default to suffer rigorous imprisonment for the period of one month. He would further point

out that the applicant is also convicted for offence punishable under Section 354D of the IPC and sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs.7,500/-, in default to suffer rigorous imprisonment for the period of one month. Similarly, the applicant is convicted for offence punishable under Section 341 of the IPC and sentenced to suffer the simple imprisonment for one month. It is further directed that the entire substantive sentence to run concurrently. He would further point out that the applicant – appellant is acquitted of the offences punishable under Section 506 of the IPC and u/Sec. 12 of Protection of Children from Sexual Offences Act, 2012.

3. The learned advocate for the applicant would point out that there are contradictions and omissions on material points in the evidence recorded on behalf of the prosecution. He would submit that the applicant - appellant has strong case on merits. The appellant – applicant has not misused the liberty during the trial.

4. The learned APP Mr. Virdhe opposes the application.

5. In view of the above, I do not find any impediment to suspend the substantive sentence of imprisonment pending appeal.

Hence, the application is allowed in terms of prayer clause 'B' and 'C', which reads thus:

“(B) Pending the hearing and final disposal of this appeal, the conviction and the implementation of substantial sentence passed by the Ld. Addl. Sessions Judge, Sangamner in Special Case No.19/2017 by impugned judgment and order dated 09/03/2023 may kindly be suspended.

(C) Pending the hearing and final disposal of this appeal on merits, warrant and any execution of sentence passed by the Ld. Addl. Sessions Judge, Sangamner in Special Case No.19/2017 by impugned judgment and order dated 09/03/2023 may kindly be suspended and applicant – appellant may kindly be released on bail.”

6. The substantive sentence imposed on the appellant – applicant vide the impugned judgment and order dated 09/03/2023 passed by the Addl. Sessions Judge, Sangamner in Special Case No.19/2017 is suspended pending the appeal. Meanwhile, the applicant be released on bail on his furnishing PR Bond of Rs.25,000/- with one solvent surety in the like amount, pending the appeal. The applicant shall attend the proceedings of appeal regularly. Bail before the learned trial Court.

(S.G. CHAPALGAONKAR)
VACATION JUDGE