

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

**915 CRIMINAL APPLICATION NO.3332 OF 2023
IN APEAL/809/2023**

**ANAND KONDIBA PAWAR AND OTHER
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. Rajendra Lone, Advocate for the applicants.
Mrs. D.S. Jape, A.P.P. for respondent No.1 – State.
Mr. Arvind Jadhav, Advocate for respondent No.2.

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CORAM : SANDIPKUMAR C. MORE, J.

DATED : 13th October 2023.

ORDER:-

1. Heard rival submissions.
2. The applicants, who are the original accused Nos.1, 2 and 6, are seeking suspension of their substantive sentences of imprisonment for the offence punishable under Section 307 and other Sections of the Indian Penal Code as well as under Section 3 (1) (r) (s) of Prevention of Children from Sexual Offence (POCSO) Act in Special Atrocity Case No. 9/2018 vide judgment and order dated 17.08.2023. The maximum sentence of imprisonment appears to be of five years.
3. The learned Counsel for the applicant/accused submitted that all the applicants were on bail during the trial and after conviction they have already deposited the fine amounts. He also also produced copies of receipts thereof.
4. On the contrary, the learned A.P.P. strongly opposed the

application on the ground that the conviction is recorded by the learned Trial Court after considering the entire evidence on record. Moreover, there was evidence of eye witnesses.

5. On the other hand, the learned Counsel for respondent No.2/informant also strongly opposed the application on the ground that just on the next day of conviction the family members of these applicants/accused threatened her which resulted into filing application to the S.D.P.O. by her. The learned Counsel for respondent No.2 also produced on record copy of that application dated 18.09.2023. Though the learned Counsel for respondent No.2 though stated that certain prohibitory action has taken by the police against the family members of these applicants, but nothing is produced on record to that effect.

6. It appears that the present applicants / accused were on bail throughout the trial and after releasing on bail there was no incident of threat given by them to the informant till disposal of the case. Further, if it is taken as true that certain prohibitory action has been taken against the family members of applicants as per the application by the informant, then also there is no such repetition of the alleged incident till today by them. Further, the applicants have also paid the fine amounts. Though the applicants are convicted after the trial, but the quantum of imprisonment appears to be of five years maximum. Therefore, I am of the opinion that they can be released on bail during the pendency of this appeal by giving them certain direction. In view of the same, following order is passed.

ORDER

- (i) The application is hereby allowed and substantive sentences of imprisonment imposed upon the applicants for offence punishable under Section 307 and other sections of the Indian Penal Code as well as under Section 3 (1) (r) (s) of POCSO Act in Special Atrocity Case No. 9/2018 under judgment and order dated 17.08.2023 is hereby suspended during the pendency of this appeal.
- (ii) The applicants be released on bail on execution of their P.R. bond of Rs. 25,000/- each with one or more solvent sureties in the like amount.
- (iii) The applicants are directed not to give threats to the informant during the pendency of this appeal.
- (iii) Bail in lower Court.
- (iv) Application is accordingly disposed of.

(SANDIPKUMAR C. MORE, J.)