

rajshree

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**INTERIM APPLICATION NO.1072 OF 2023**  
**IN**  
**CRIMINAL APPEAL NO.323 OF 2023**

|                                   |   |    |             |
|-----------------------------------|---|----|-------------|
| Dinesh Manju @ Manjunath Chaugule | ] | .. | Applicant   |
| vs.                               |   |    |             |
| State of Maharashtra & Anr.       | ] | .. | Respondents |

Mr.Rupesh Jaiswal for the Applicant.

Ms.P.N. Dabholkar, APP for the State.

Ms.Savita Prabhune, Appointed Advocate for Respondent No.2.

**CORAM : BHARATI DANGRE, J**

**DATE : 2<sup>nd</sup> May, 2023**

**P.C.**

1] Heard the learned counsel for the Applicant, the learned APP for the State and the learned counsel for Respondent No.2.

2] The Applicant being convicted on 13.01.2023 in Special POCSO Case No.150/2020 for committing offence punishable under Section 354, 354A, 354D of the IPC, under Section 7, 8 and 12 of the POCSO Act, is sentenced to undergo RI for 3 years and to pay fine of Rs.10,000/- i.d. to suffer RI for 6 months for having committed offence under POCSO Act. For committing an offence under Section 354D of the IPC, he is sentenced to suffer RI for one year. No separate

sentence is awarded on being convicted under Section 354, 354A of the IPC and under Section 12 of the POCSO Act. All sentences are directed to run concurrently.

3] With the able assistance of the respective counsel, I have perused the impugned Judgment and have also gone through the notes of evidence, which are placed on record by the learned counsel for the Applicant.

The learned counsel for the Applicant would submit that testimony of PW 2 – the Prosecutrix, is suffering from material omissions and on perusal of the same, I agree with the submission.

The omissions are sought to be projected as creating doubt in the prosecution case and the submission of the learned counsel is that the learned Judge failed to appreciate the same, and rather ignored it.

Apart from this, the sentence imposed is of fixed term and therefore it deserve to be suspended, is the submission advanced.

4] On perusal of the impugned Judgment, as well as notes of evidence, I deem it appropriate to suspend the sentence, since the omissions which have been proved are materially affecting the veracity of the case of prosecution.

Undisputedly, the prosecutrix is a young girl, but presently she is residing at Kolhapur, and, therefore, by imposing appropriate condition, the Applicant deserve to be released on bail, since it is also submitted that during the entire trial, he was on bail and it is not reported that he has misused his liberty.

5] In wake of above, since the evidence will have to be appreciated, by applying the well settled parameters, which can happen

only at the time of hearing of the appeal, it would be appropriate to suspend the sentence imposed on the Applicant.

6] Interim Application is allowed. The substantive sentence passed against the applicant by the Judgment dated 13.01.2023 in Special POCSO Case No.150/2020, is suspended.

The Applicant be released on bail, on furnishing PR Bond to the extent of Rs.25,000/- with one two sureties of the like amount.

As a condition of release, the Applicant shall not make any attempt to contact the Prosecutrix or exert any pressure upon her and shall not enter the jurisdiction of Kolhapur Police Station.

**[BHARATI DANGRE, J]**