

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

**INTERIM APPLICATION NO.1620 OF 2023
IN
CRIMINAL APPEAL NO.855 OF 2022**

Pravin Suresh Sannake	...Applicant
VS.	
State of Maharashtra & Anr.	...Respondents

Mr. Kuldeep Patil with Nikhil Hire for the Applicant.
Mrs. P. P. Shinde APP for Respondent No.1-State.
Mr. Irfan Alim Shaikh for Respondent No.2.

CORAM : N. B. SURYAWANSHI, J.

DATED : 18TH OCTOBER 2023

P. C. :

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal preferred by applicants challenging the judgment of conviction.

2. The Applicant is convicted under Sections 376(2) (n), 363 of the Indian Penal Code and is sentenced to suffer RI for ten years in Special (POCSO) Case No.38 of 2017, and the fine of Rs.25,000/- is also imposed on the Applicant.

3. Learned APP and learned Advocate for Respondent No.2-victim vehemently opposed the application on the ground that there is subsequent registration of offence against the Applicant vide C.R. No.410 of 2019 with Miraj police station for the offence punishable under Sections 363, 366 of IPC and under Section 11 of POCSO Act. Previous Crime No.19 of 2015, is also registered with Miraj police station under Sections 143, 144, 147, 149, 323, 341 of IPC against the Applicant.

4. Perused the impugned judgment. Prima facie there appears substance in the contention of learned Advocate for Applicant that the prosecution has not proved age of the victim and/or that victim falls within the definition of a child as per Section 2 of the Protection of Children from Sexual Offences Act, 2012. It further appears that there was love affair between victim and accused at the time of incident.

5. Applicant is in jail since last more than one and half year. Appeal is not likely to be taken up for final hearing in near future. In this view of the matter in the facts of the present case, application deserves to be allowed.

6. In the result, the following order :-

- (i) Application is allowed.
- (ii) Substantive sentence of imprisonment imposed vide judgment and order dated 30th June 2022, passed by Additional Sessions Judge, (Special Court), Sangli, in Special Case (POCSO) No.38 of 2017, is suspended during the pendency of the Appeal.
- (iii) Applicant be released on bail on executing PR bond in the sum of Rs.15,000/- with one surety in the like amount and on depositing fine amount in the trial Court.
- (iv) The Applicant shall attend concerned police station on every Sunday until further orders.
- (v) The applicant shall not indulge in any unlawful activity henceforth.

[N. B. SURYAWANSHI, J.]