

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

**INTERIM APPLICATION NO. 1005 OF 2023
IN
CRIMINAL APPEAL NO. 299 OF 2023**

Sanjay Karbhari Bachhav

...Applicant

Versus

State Of Maharashtra And Anr.

...Respondents

....

Ms. Sushmita Sarkar a/w Mr. Nikhil Hire, Advocate for the Applicant.

Ms. Janhavi Karnik, Advocate for Respondent No.2.

Ms. Pallavi N. Dabholkar, APP for the Respondent – State.

CORAM : PRAKASH D. NAIK, J.

DATE : 28th JULY, 2023.

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of appeal preferred by the Applicant challenging the Judgment of conviction.

2. The Applicant has been convicted vide Judgment and order dated 23rd January, 2023 for the offence punishable under Section 354A-1(i) and Section 341 of Indian Penal Code (for short 'IPC') and sentenced to suffer imprisonment of two months for the offence under Section 354A-1(i) of IPC and fine of Rs. 500 for the conviction under Section 341 of IPC. The Applicant is acquitted for the offences under Section 363 of IPC and Sections 8 and 12 of Protection of Children from Sexual Offences.

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3. Learned Advocate for the Applicant submitted that the Applicant was on bail during the trial. He has not misused the facility of bail. The sentence of imprisonment is of short term on the date of conviction the sentence was suspended. There are discrepancies in the evidence of the witnesses. There is no independent witness to corroborate the version of the complainant. PW-3 is a interested witness. Appeal may not come up for hearing immediately.

4. Learned APP and learned Advocate for Respondent No.2 submitted that there is sufficient evidence to convict the Appellant and the trial Court has held with the charges are proved against the Applicant.

5. The sentence is of short term. The Applicant has been acquitted for the offence under the POCSO Act. The appeal may not reach for hearing immediately.

ORDER

i. Criminal Interim Application No. 1005 of 2023 is allowed;

ii. The sentence of imprisonment imposed vide Judgment and order dated 23rd January, 2023 passed by Extra Joint District Judge and Additional Sessions Judge, Malegaon is

suspended during the pendency of Criminal Appeal No.299 of 2023 and the Applicant is directed to be released on same bail as in the trial Court with fresh bond.

iii. Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)