

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

**INTERIM APPLICATION NO. 1058 OF 2023
IN
CRIMINAL APPEAL NO. 681 OF 2022**

Steny Francis Pareira	...Applicant/Appellant
Versus	
State Of Maharashtra And Anr.	...Respondent

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Mr. Aniket Vagal a/w Kunal Pednekar with Divesh Mehani Advocate for the Applicant/Appellant.

Mr. Yeshpal Thakur Advocate for Respondent No.2.

Ms. Anamika Malhotra, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATE : 6th JUNE 2023

PC :

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal preferred by the applicant challenging the judgment of conviction.
2. The applicant/appellant has been convicted vide judgment and order dated 13th May 2022 for offence punishable under Section 376(AB) of Indian Penal Code and Section 5 (m) read with Section 6 of the Protection of Children from Sexual Offences Act, 2012. He has been sentenced to suffer imprisonment of 10 years.
3. Learned Advocate for the Applicant/Appellant submitted that

the alleged act cannot be determined as aggravated penetrative sexual assault. At the most it can be termed as aggravated sexual assault as defined under Section 9 and punishable under Section 10 of the POCSO Act. The version of the victim does not indicate that the accused had subjected her to penetrative sexual assault. The applicant is in custody from 16th July 2018.

4. Learned APP and learned Advocate for Respondent No.2 submitted that, the victim's version clearly indicate that there was penetrative sexual assault. The victim was aged around 5 years. The medical evidence supports the charge levelled against the applicant.

5. The questions urged by both sides will have to be determined finally while adjudicating the appeal on appreciating the evidence on record. Prima facie on the basis of the version of the victim and the medical evidence, no case is made out for suspension of sentence and grant of bail.

6. Learned Advocate for the applicant at this stage submitted that, considering the fact that the applicant is in custody for substantial period, liberty may be granted to the applicant to prefer fresh application for bail in the event the appeal is not heard expeditiously.

ORDER

(i) Interim Application No. 1058 of 2023 is rejected.

- (ii) Hearing of Appeal is expedited.
- (iii) In the event, the appeal is not heard for a period of one year, the applicant will be at liberty to prefer fresh application for suspension of sentence.
- (iv) Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)