

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

**INTERIM APPLICATION NO. 1369 OF 2023
IN
CRIMINAL APPEAL NO. 431 OF 2023**

Aatish Surji Dungarkar	...Applicant/Appellant
Versus	
Union Territory of Dadra and Nagar Haveli And Anr.	...Respondents

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Ms. Rashmi Sheth a/w Ms. Priya Dubey i/by Mr. Ayush Kedia, Advocate
for the Applicant/Appellant.

Mr. Shailesh Kantharia, Advocate for Respondent No.2.

Mr. H. S. Venegavkar, Special P. P. for Respondent - UOI.

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

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CORAM	:	PRAKASH D. NAIK, J.
DATE	:	8th JUNE, 2023.

PER COURT:

1. This is an application for suspension of sentence and grant of bail during the pendency of appeal challenging the Judgment of conviction.
2. The applicant has been convicted vide Judgment and Order dated 09.02.2023 passed by the learned Special Judge (under POCSO Act), Dadra & Nagar Haveli, Silvassa for offence punishable under Section 376 of Indian Penal Code (for short “IPC”) and Section 6 of the Protection of Children from Sexual Offences Act,

2012 (for short 'POCSO Act') on both the counts the applicant has been sentenced to suffer imprisonment of ten years. Both the sentences are directed to run concurrently.

3. The prosecution case is that the victim and the accused were closely acquainted with each other. There was love affair between them. Their marriage was fixed. However, before the marriage could be solemnized, there was dispute between them which has resulted in registration of FIR. Apparently the victim was aged around Seventeen and half years at the time of incident. It is pointed out that, subsequently the victim and the accused got married when the victim had attained the age of majority. It seems thereafter there were differences between them and both are separated from each other.

4. From the evidence on record it appears that the victim had lodged the FIR at the instance of her parents. Marriage between accused and victim was performed. The age of victim is disputed.

5. Considering the aforesaid circumstances, case for suspension of sentence and grant of bail is made out.

ORDER

- i. Interim Application No. 1369 of 2023 is allowed;

- ii. The substantive sentence of imprisonment imposed vide Judgment and order dated 09.02.2023 passed by the learned Special Judge (under POCSO Act), Dadra & Nagar Haveli, Silvassa in Special (POCSO) Case No.21 of 2019 is suspended and the applicant is directed to be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant shall report the concerned Police Station once in six months on first Saturday of the month between 11.00 a.m. to 1.00 noon till final disposal of the appeal;
- iv. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)