

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 1300 OF 2023
IN
CRIMINAL APPEAL NO. 415 OF 2023

Khalid Adil Sayyad ...Applicant
Versus
State Of Maharashtra And Anr. ...Respondents

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Ms. Lakshmi Raman Advocate for Applicant.

Mr. Mainak Adhikary Advocate for Respondent No.2.

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

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CORAM : PRAKASH D. NAIK, J.

DATE : 7th JULY, 2023.

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P.C.:-

1. This is an application for suspension of sentence and grant of bail during the pendency of Criminal Appeal challenging the judgment of conviction.
2. The applicant has been convicted vide judgment and order dated 15th March 2023 passed by Special Judge under POCSO Act for Greater Bombay for offences punishable under Section 11(iv) punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and sentenced to suffer imprisonment for one year. He is also convicted for offence under Section 354(D) of the Indian Penal Code.

However, no separate sentence was imposed. He has been convicted for offence under Sections 354 and 506 (II) and Section 10 of POCSO Act.

3. Learned Advocate for the applicant submitted that, the applicant was on bail during the trial. Sentence was suspended by the trial Court on the date of conviction. The sentence imposed by the trial Court is of short term. There are discrepancies in the evidence adduced by prosecution. The victim and the accused were acquainted with each other. She given her cellphone number to him. The ingredients to constitute the offence which is convicted are lacking.

4. Learned APP and learned Advocate for Respondent No.2 submitted that the trial Court has convicted the applicant on the basis of cogent evidence adduced by the prosecution. The accused had also held hand of the victim girl which is resulted in crisis through her hand.

5. Undisputedly, applicant was on bail during the trial. The sentence of imprisonment was suspended by the trial Court on the date of conviction in accordance with section 389 of Cr.P.C. Subsequently, the order passed by the trial Court has been continued by this Court by way of interim relief. The sentence is of short term. Appeal may not come up for hearing immediately. Hence, case for grant of bail is made out.

ORDER

- (i) Interim Application No.1300 of 2023 is allowed.
- (ii) The substantive sentence of imprisonment imposed vide judgment

and order order dated 15th March 2023 passed by Special Judge under POCSO Act for Greater Bombay is suspended and the applicant is directed to be released on bail on same bail as in the trial Court with fresh bond.

(iii) The applicant is permitted to continue same surety which was furnished during the pendency of trial.

(iv) The applicant shall not contact the victim in any manner.

(v) Interim Application stands disposed off.

(PRAKASH D. NAIK, J.)