

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

**INTERIM APPLICATION NO. 1618 OF 2023
IN
CRIMINAL APPEAL NO. 1290 OF 2019**

Pullikal Krushnan Prasannan ...Applicant/Appellant
Versus
The State of Maharashtra And Anr. ...Respondents

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Ms. Mallika Sharma i/by Ms. Anjali Patil, Advocate for the Applicant/Appellant.

Ms. Manish Devkar, Advocate for Respondent No.2.

Ms. Pallavi N. Dabholkar, APP for the Respondent No.1 – State.

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CORAM : PRAKASH D. NAIK, J.
DATE : 6th JULY, 2023.

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PER COURT:

1. The applicant has preferred this application for suspension of sentence and grant of bail during the pendency of Criminal Appeal No. 1290 of 2019 challenging the judgment of conviction.
2. The applicant has been convicted vide judgment and order dated 13th August 2019 passed by the learned Special Judge, (under POCSO Act) at Greater Bombay in POCSO Special Case No.119 of 2015 for offences punishable under Sections 10 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to suffer rigorous imprisonment for six years

and three months. The appeal is admitted vide order dated 10th October 2019.

3. The applicant had preferred application for suspension of sentence for temporary period of six months viz. Interim Application (ST.) No. 2548 of 2020 on the ground that, the applicant is suffering from severe diabetes and proper treatment is not given to him in jail. Vide order dated 14th October 2020, the applicant was directed to be released on bail by suspending the sentence imposed vide judgment and order dated 13th August 2019. Subsequently, by order dated 25th November 2020, temporary bail was extended by eight weeks and again vide order dated 14th January 2021 it was extended for a period of 30 days. The previous application for suspension of sentence was withdrawn vide order dated 7th November 2019 since another case was pending. Interim Application No.1394 of 2020 preferred by applicant for suspension of sentence on merits was allowed to be withdrawn with liberty to prefer fresh application for suspension of sentence after a period of one year from the date of the said order i.e. 4th May 2022.

4. Learned Advocate for the applicant submitted that, the applicant is in custody for a period about four years. Reliance is placed on the medical case papers annexed to this application and

submitted that, the applicant is suffering from Cancer and Tumor Marker-CEA. The applicant was on bail during the trial. Subsequently, he was arrested in another case. The applicant was granted temporary bail on medical ground. The applicant has not misused the facility of temporary bail granted by this Court.

5. Learned APP and learned Advocate for Respondent No.2 submitted that, the applicant has been convicted in two cases. Offences are similar.

6. The applicant has been sentenced to suffer imprisonment for six years. The applicant was granted liberty to prefer fresh application for suspension of sentence after a period of one year vide order dated 4th May 2022. The applicant is suffering from serious illness. The medical case papers annexed to the application mentions that applicant is suffering from cancer. Earlier, he was granted temporary bail on medical ground. The sentence is of six years. The applicant has undergone for a period of four years. The applicant is convicted in another case vide judgment and order dated 31st March 2022 passed by Special Judge under POCSO Act. However, in that case also the applicant is in custody for a period of one year and three months. Considering the health issue of the applicant and the aforesaid aspects, sentence can be suspended.

ORDER

- i. Interim Application No. 1618 of 2023 is allowed;
- ii. The substantive sentence of imprisonment imposed vide Judgment and order dated 13.08.2019 passed by the learned Special Judge (under POCSO Act) at Greater Bombay in POCSO Special Case No.119 of 2015 is suspended pending appeal and the applicant is directed to be released on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- iii. The applicant is permitted to furnish cash bail in the sum of Rs.25,000/- for a period of six weeks in lieu of surety;
- iv. The applicant shall stay out of jurisdiction of Tilak Nagar Police Station, Mumbai till final disposal of appeal;
- v. The applicant shall furnish the details of his place of residence after he is released on bail to the Investigating Officer;
- vi. The applicant shall report the nearest Police Station once in three months on first Saturday of the month between 11.00 a.m. to 1.00 noon till further orders;
- vii. Interim Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)