

preferring Criminal Appeal No. 356 of 2022. The appeal is admitted vide order dated 8th April 2022.

4. The applicant had preferred Interim Application No. 1141 of 2022 before this Court which was allowed to be withdrawn with liberty to prefer fresh application for suspension of sentence after a period of one year from the date of the order i.e. 4th May 2022. In the event, Appeal is not heard.

5. Learned Advocate for the applicant submitted that, the applicant is in custody for a period about four years in connection with Special Case No. 119 of 2015 which has resulted in conviction vide judgment and order dated 13th August 2019 passed by Special Judge under POCSO Act wherein he has been sentenced to suffer imprisonment for six years for offences punishable under Sections 10 and 12 of the POCSO Act. The applicant was granted temporary bail on medical ground in that case vide order dated 14th October 2020, which was subsequently extended for further period of 30 days. The applicant has not misused the facility of temporary bail. In the present case, the sentence imposed by the trial Court is of five years. He has undergone imprisonment for one year and three months. 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.

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

7. The applicant has been sentenced to suffer imprisonment for five 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 cancer and tumor marker. Earlier, he was granted temporary bail on medical ground in other case. The applicant has not misused the facility of temporary bail. The sentence is of five years. The applicant has undergone for a period of one year and three months. He is in custody in another case in which applicant has been convicted vide judgment and order dated 13th August 2019, for four years. Considering the health issue of the applicant and the aforesaid aspects, sentence can be suspended.

ORDER

- i. Interim Application No.1681 of 2023 is allowed;
- ii. The substantive sentence of imprisonment imposed vide Judgment and order dated 31.03.2022 passed by the learned Special Judge (under POCSO Act) at Greater Bombay in POCSO Special Case No.549 of 2016 is suspended 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.)