

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

**INTERIM APPLICATION NO. 2062 OF 2023
IN
CRIMINAL APPEAL NO. 1014 OF 2017**

Prakash Sambhaji Kumbhar ...Applicant
Versus
The State of Maharashtra ...Respondent

....

Mr. N. K. Sharma, Advocate for the Applicant/Appellant.
Mr. Y.Y. Dabake, APP for Respondent-State.

**CORAM : PRAKASH D. NAIK,
R.N. LADDHA, JJ.**

DATE : 21st DECEMBER, 2023

P.C.:

1. This is an Application for suspension of sentence and grant of bail pending in Criminal Appeal No.1014 of 2017.

2. The Applicant is convicted vide Judgment and Order dated 7th October, 2017 passed by Special Judge, Kolhapur whereby, he is convicted for the offence punishable under Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and sentenced to suffer imprisonment for life.

3. The case of the prosecution is that on 11th April, 2014 the grandsons of informant went on terrace to sleep. The Accused came there. He slept at side of the children. At about 11:00 pm informant

SUNNY
ANKUSHRAO
THOTE
Digitally signed
by SUNNY
ANKUSHRAO
THOTE
Date:
2023.12.27
12:45:30 +0530

went down for urination. While he returned, he saw that his grandson was not there. He enquired with the Accused about he whereabouts. Accused informed that the victim went for latrine. Informant came down and gave a called to victim, but he did not reply. Victim then came from back side and told that he went for latrine. On 12th April, 2014, victim called his paternal aunt on mobile phone and told her that she should take him to Kolhapur. Informant's daughter came to the village and took grandsons to her house. On 18th April, 2014 she called the informant to her house and told him that on 10th April, 2014, Accused committed unnatural sex on victim and thereafter, 11th April, 2014, he committed similar act on another victim. Crime was registered.

4. The previous Application for suspension of sentence and grant of bail was rejected by this Court vide Order dated 18th March, 2019.

5. Learned Advocate for the Applicant submitted that the Applicant is in custody for more than 6 years. While rejecting the previous Application this Court had expedited hearing of Appeal. Appeal could not be taken up. The evidence adduced by the prosecution is weak. There are no chances of hearing the Appeal. The medical evidence does not support the version of the victims.

There was delay in lodging FIR. The Applicant is not keeping well. He has taken treatment in department of Neuro Surgery. Medical case papers are annexed to this Application. The medical documents indicate that the Applicant is suffering from venous sinus thrombosis.

6. Learned APP submitted that the Applicant is involved in heinous crime. He has subjected the victim boys to unnatural sex. The previous Application for suspension of sentence was rejected. The medical reports relied upon by the Applicant relates to the old treatment. The medical case papers does not indicate that the Application is suffering from serious element.

7. The previous Application for suspension of sentence was rejected by this Court, on the ground that the Applicant is convicted for aggravated penetrative sexual assault on two boys. This Court considered the evidence of Dr. Sachin (PW-7) and the evidence of minors (victims). It was also observed that contention that the Appellant has been falsely implicated or being bail during trial is not relevant at this stage.

8. Considering the nature of crime and the evidence, no case is made out for suspension of sentence and bail.

ORDER

- i. Interim Application No.2062 of 2023 is rejected;
- ii. Criminal Appeal No.1014 of 2017 be added to the weekly final hearing board commencing from 2nd January, 2024.

(R. N. LADDHA, J.)

(PRAKASH D. NAIK, J.)