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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 2724 OF 2023
IN
CRIMINAL APPEAL NO. 958 OF 2023**

Anil Baburao Pradhan,
R/at Behind Gate of Mahindra Company,
Gandhinagar Slums, Pimpri, District Pune.
Presently lodged in Yerwada Central Jail. ... Applicant

vs.

1. The State of Maharashtra
Through PSO Pimpri Police Station,
CR No. 541/2016.
2. XYZ
Original Complainant
In CR No. 541/2016
Through PSO Pimpri Police Station, Pune. ... Respondents

Ms. Manisha Devkar for the applicant.
Mr. V.B. Konde Deshmukh, APP for the State.
Mr. Abhishek Kulkarni, appointed for Respondent No.2

**CORAM : REVATI MOHITE DERE &
GAURI GODSE, JJ.**

DATED: 20th OCTOBER 2023

PC :-

1. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the aforesaid appeal.

2. The aforesaid appeal is filed by the applicant for challenging the Judgment and Order dated 30th January 2023, passed by learned Sessions Judge, Pune, in POCSO Case No. 493 of 2016. By the said judgment and order, the applicant is convicted for the offences punishable under Sections 354-B, 376, 506 of the Indian Penal Code and Sections 3, 4, 5(n), 6, 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 (**‘POCSO Act’**) and sentenced as under:-

- for the offence punishable under Section 354-B of the Indian Penal Code, to suffer imprisonment for 5 years and to pay a fine of Rs.5,000/- in default, to suffer simple imprisonment for one month.
- for the offence punishable under Section 376 of the

Indian Penal Code, to suffer rigorous imprisonment for life and to pay fine of Rs. 10,000/- in default, to suffer simple imprisonment for two month.

- for the offence punishable under Section 506 of the Indian Penal Code, to suffer imprisonment for one year.

-for the offence punishable under Section 4 of the POCSO Act, to suffer imprisonment for life and to pay fine of Rs. 10,000/- in default, to suffer simple imprisonment for two months.

- for the offence punishable under Section 6 of the POCSO Act, to suffer rigorous imprisonment for life and to pay fine of Rs. 10,000/- in default, to suffer simple imprisonment for two months.

- for the offence punishable under Section 8 of the POCSO Act, to suffer rigorous imprisonment for 5 years and to pay fine of Rs. 5,000/- in default, to suffer simple

imprisonment for one month.

3. All the aforesaid sentences were directed to run concurrently.

4. The case of the prosecution is that the victim girl was 14 years old at the time of the incident. The prosecution alleges that the accused is her father. On 24th September 2016, around 3.00 pm when the informant was at her house, her younger sister-in-law, Varsha Dipak Pradhan, called the informant and asked her to see what the accused, the father of the victim, was doing with the victim. Hence, the informant peeped into the gap of the door of the house and saw that the accused had lifted the victim's skirt and was moving his hand on the victim; hence informant and her sister-in-law shouted. That time accused opened the door and ran away. It is alleged that the victim was frightened, and the victim had told the incident to informant Diksha, her sister-in-law Varsha (Aunt of the victim) and social worker Maya Bhaskar Savant. Thereafter, they took the victim to the police station and

the informant lodged a report on the same day i.e. on 24th September 2016.

5. Learned counsel for the applicant submitted that the witnesses examined by the prosecution were interested witnesses with a grudge against the applicant. She further submitted that there are material omissions and contradictions in the evidence of the victim as well as the witnesses. She submitted that there is no evidence on record except the statement of the victim, and that same also does not reveal that the victim has stated any particular time, place and date of the alleged occurrence of the incident.

6. Learned counsel submitted that the applicant has been incarcerated since 24th September 2016. She thus submitted that considering the aforesaid, the application be allowed, and the applicant's sentence be suspended, and he be enlarged on bail by imposing appropriate conditions.

7. Learned APP opposed the application and submitted that the evidence on record is sufficient to show that the applicant has committed the crime. She submitted that the applicant is father of the victim. She thus submitted that considering the evidence on record, this is not the case where the applicant is entitled to be enlarged on bail.

8. Learned counsel for the respondent no.2-original complainant also opposed the application. He submitted that the prosecution has proved the case beyond reasonable doubt and that the applicant, the father of the victim, has committed the crime on his own minor daughter. Learned counsel submitted that the perusal of the evidence of the victim is sufficient to prove the alleged crime against the applicant. He further submitted that the evidence of the other witnesses corroborates the victim's case. He, therefore, submitted that the application be rejected.

9. We have heard the learned counsels. We have perused the

record. Perusal of the evidence and particularly the evidence of PW 1-Aunt of the victim, PW 2- Victim, PW 3-Social worker and PW7- mother of the victim, along with the medical evidence on record, prima facie shows that the complicity of the applicant.

10. Considering the nature of the offence and the evidence on record, this is not a case where the applicant can be enlarged on bail. Hence, the application is rejected. However, considering the fact, that the applicant has been incarcerated since 24th September 2016, the preparation of the paper book and hearing of the appeal is expedited. On preparation of the paper book, registry to list the appeal on the final hearing board.

11. Application is disposed of.

12. All concerned to act on the authenticated copy of this order.

(GAURI GODSE, J.)

(REVATI MOHITE DERE, J.)