



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

**INTERIM APPLICATION NO.3323 OF 2022
IN
CRIMINAL APPEAL NO.982 OF 2022**

Tushar Shashikant Gaikwad
(Presently in Talaja Central Jail,
Navi Mumbai) ... Applicant
Versus
The State of Maharashtra And Another ... Respondents

Mr. Lokesh Zade a/w Mr. Asif Shaik for the Applicant.

Mr. A.R. Patil, APP for Respondent No.1-State.

Ms. Manisha Jagtap (Appointed Advocate) for Respondent No.2.

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 25 OCTOBER 2023

P.C.

. This is an application for suspension of sentence and grant of bail during the pendency of the Criminal Appeal preferred by the Applicant challenging the judgment and conviction.

2 The Applicant is convicted by the Special Sessions Judge (POCSO), Mumbai in Sessions Case (POCSO) No.318 of 2021 under Sections 354, 354(A) of the Indian Penal Code and section 10 (for the offence under Section 9(m) of the Protection of Children from Sexual Offences Act, 2012 and thereby sentenced to suffer rigorous

imprisonment for five years and to pay fine of Rs.1,000/-.

3 Heard learned Counsel for the Applicant, learned APP for Respondent No.1-State and learned Counsel for Respondent No.2.

4 Perused the record. Out of sentence of five years imprisonment, the Applicant has undergone more than two and half years of imprisonment. Admittedly, the sentence is a short term sentence and the appeal preferred by the Applicant/Appellant is not likely to be heard in near future. In the light of decision of the Apex Court in the case of **Bhagwan Rama Shinde Gosai and Ors. Vs. State of Gujrat¹**, the Applicant deserves to be released on bail. Hence, the following Order :

- (i) The Interim Application is allowed.
- (ii) Substantive sentence of imprisonment imposed vide judgment and order dated 17 August 2022 in Sessions Case (POCSO) No.318 of 2021 is suspended during the pendency of the Appeal.
- (iii) Applicant-Tushar Shashikant Gaikwad be released on bail on executing PR bond in the sum of Rs.25,000/-

¹(1999) SCC (Cri.) 553

with one surety in the like amount.

- (iv) Applicant be released on provisional cash security of Rs.25,000/- and on executing PR Bond of the same amount.
- (v) Applicant shall deposit fine amount, if not already deposited.
- (vi) Applicant shall attend the trial court once in three months on first Monday, until further orders.
- (vii) Applicant shall furnish his permanent address as well as present address to the trial Court along with copies of his Aadhar Card and Cell number/s.

(NITIN B. SURYAWANSHI, J.)