

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

**INTERIM APPLICATION NO.300 OF 2024
IN
CRIMINAL APPEAL NO.226 OF 2024**

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Jummasha Kashim Khalifa ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Nitin Gaware, for the Applicant.
Mrs. M. R. Tidke, APP for the Respondent/State.
Mr. Veerdhawal Deshmukh, Appointed advocate for the Respondent
No.2.

CORAM : KISHORE C. SANT, J.

DATE : 10th APRIL, 2024

PC.

1. Heard learned counsel for the parties.
2. This Application is for suspension of sentence. The Appeal is already admitted by this Court by order dated 26th February, 2024. Applicant is convicted for the offence punishable under Sections 354, 354-A of IPC and Sections 8, 10 and 12 of the POCSO Act. The maximum sentence awarded is for the offence punishable under Section 10 of POCSO Act and Applicant is directed to suffer RI for 5 years and to pay fine of Rs.10,000/-, in default to suffer further RI for 2 months. For the offence under Section 354 of IPC, Applicant is directed to undergo 3 years RI and

to pay fine of Rs.5000/- and in default to suffer further RI for 1 month.

3. Learned advocate for the Applicant submits that the Applicant is in jail since 23rd March, 2020 and he has already suffered more than 4 years of actual sentence. He therefore prays for suspension of sentence on this ground.

4. Learned advocate for the Respondent No.2 and learned APP vehemently oppose the Application.

5. However, considering that out of 5 years of sentence, Applicant has already suffered more than 4 years, so also, there is no likelihood of the Appeal being heard in near future, this Court is inclined to allow the Application. Hence, the following order :-

- i) The Application stands allowed.
- ii) The substantive sentence awarded by learned Special Judge (POSCO Act), Gadhinglaj by judgment and order dated 15th February, 2023 in Special (POSCO) Case No.8 of 2020 stands suspended.
- iii) Applicant shall be released on bail on executing PR bond and one solvent surety in the sum of Rs.15,000/- in connection with sentence awarded by learned Special

Judge (POSCO Act), Gadhinglaj by judgment and order dated 15th February, 2023 in Special POSCO Case No.8 of 2020.

- iv) Applicant shall furnish contact details including his mobile number etc. to the concerned Police Station. If there is any change in the contact details, same be immediately informed to the concerned Police Station.
 - v) Applicant shall not contact the victim or any of the witnesses.
 - vi) Applicant shall not enter the jurisdiction of Gadhinglaj Police Station except for attending the Police Station once in month i.e. on every first Sunday between 11:00 a.m. to 01:00 p.m.
6. The Application stands disposed of.
7. In view of this, hearing of the Appeal is expedited.

[KISHORE C. SANT, J.]