

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 372 OF 2024

WITH

CRIMINAL APPEAL (ST) NO. 1550 OF 2024

Altaf @ Lalu Ahmed Khan ... Applicant/Appellant

V/s.

The State of Maharashtra & Anr. ... Respondents

Mr. Vaibhav Sugdare, for the appellant.

Mr. A.R. Patil, APP, for the Respondent / State.

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CORAM : KISHORE C. SANT, J.

DATE : 26TH APRIL 2024.

PC:

1. This application is for suspension of sentence and release of the applicant on bail.

2. The applicant is convicted for the offence punishable under Section 376, 506(ii) of Indian Penal Code and for the offence punishable under sections 4, 6, 8 and 12 of Protection of Children from Sexual Offences Act, 2012 passed by the learned Special Judge under POCSO Act, 2012 in Special Case No. 26 of 2017 dated 27.01.2023. The maximum sentence awarded is of 10 years and to pay fine amount of Rs. 20,000/- in default, to suffer further SI for 3 months.

3. Today the application is placed mainly on the ground that the applicant has already undergone more than 7 years and 5 months of the sentence out of 10 years. Learned advocate for the applicant relies on the judgment passed by the Hon'ble Apex Court in Criminal Appeal No. 3415 of 2023 passed in case of **'Vishnubhai Ganpatbhai Patel and Anr. vs. State of Gujarat'** wherein the Hon'ble Apex Court had directed to suspend the sentence and release of applicant on bail as more than 40% from the sentence has been undergone.

4. Learned APP opposes the application stating that this is a rare case wherein father has committed rape on his minor girl who was hardly 16 years of age at the time of incident. This Court has not considered the application on merits. Considering only fact that by now the applicant has undergone more than 7 years and 5 months in jail. Hence, the following order:

ORDER

- i) The application is allowed.
- ii) Substantive sentence awarded by the Special Judge under POCSO Act, 2012 in Special Case No. 26 of 2017 dated 27.01.2023 is hereby suspended.
- iii) The applicant shall be released on bail on furnishing PR bond or Rs. 15,000/- and one solvent surety in the like amount and subject to payment of fine amount, if not paid.
- iv) The applicant shall not contact the victim.
- v) The applicant shall report to the concerned police station once in every month i.e. on every first Sunday between

11:00a.m to 1:00p.m. starting from the month of May.

vi) The Applicant shall furnish details of residential address and other contact details such as mobile number etc. to the concerned police station. If there is any change in the contact details the same will be immediately informed to the concerned police station.

5. With this, the application stands disposed of.

(KISHORE C. SANT, J)