

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

**INTERIM APPLICATION NO.719 OF 2024
IN
CRIMINAL APPEAL NO.170 OF 2024**

Nitesh Ganpat Dindhale ..Applicant/Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Mrs. Racheeta R. Dhuru, for the Applicant/Appellant.
Mr. A. R. Patil, APP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 21st MARCH, 2024

PC.

1. Heard learned counsel for the parties.
2. This Application is preferred for suspension of sentence and release of the Applicant on bail in connection with judgment and order dated 04.01.2024 passed by the learned Special Judge under POCSO Act in Special POCSO No.1100 of 2020. Applicant is sentenced to suffer RI for five years and to pay fine of Rs.5000/- and in default to suffer SI for one month for the offence under Section 10 of the POCSO Act. No separate sentence is awarded for offence under Section 354 of IPC and Section 8 of POCSO Act, as already punishment is awarded under Section 10 of POCSO Act.

3. The case of the prosecution in short is that the victim girl was taking coaching from the accused in the badminton class. While giving coaching, it is alleged that the Applicant touched her chest inappropriately on two occasions.

4. Learned advocate for the Applicant vehemently submits that the Applicant was a Coach of badminton. By showing some portion from cross-examination, she submits that it is natural for the Applicant to teach the student closely. He also used to get annoyed on the students and in such cases, he used to slap students. The victim has also admitted that on mistakes he used to slap her. She thus submits that there is no intention of the Applicant to commit offence. The class is full of students. This case can be taken of misunderstanding. It is also seen from the cross-examination that after the alleged incident, the victim kept on practicing for sometime. She submits that during the trial, Applicant was on bail. He has already paid fine amount on the date of judgment. There are no criminal antecedents.

5. Learned APP opposed the Application stating that in this case the victim was taking education in 5th standard when the incident took place. Learned Special Judge has rightly considered the case and convicted the Applicant. He prays for rejection of the Application.

6. Considering that the sentence is a short sentence of only

five years and the Applicant was on bail during the trial, he is now again taken in custody on 4th January, 2024. This Court finds that the Appeal is not likely to come up for hearing in near future. Considering the above facts, this Court is inclined to allow the Application.

7. The Application is therefore allowed.

8. Sentence awarded by learned Special Judge under POCSO Act in Special Case No.1100 of 2020 dated 04.01.2024 stands suspended.

9. Pending the Appeal, Applicant shall be released on bail on furnishing PR bond and one or more sureties in the sum of Rs.15,000/-.

10. Applicant shall furnish his contact details including mobile number to the concerned Police Station. If there is any change in the contact details, Applicant shall immediately inform to the concerned Police Station.

11. The Application stands disposed of.

[KISHORE C. SANT, J.]