

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CRIMINAL APPELLATE JURISDICTION**  
**INTERIM APPLICATION NO. 1003 OF 2023**  
**IN**  
**CRIMINAL APPEAL NO. 48 OF 2023**

Prashant Prabhakar Janaskar                      ...                      Appellant/Applicant  
V/s.  
State of Maharashtra & Anr.                      ...                      Respondents

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Mr. Aniket Vagal with Mr. Divesh Mehani with Kunal Pednekar, for the applicant/appellant.

Ms. Misbaah Solkar, for the respondent no. 2.

Mrs. M. R. Tidke,APP, for the Respondent/State.

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**CORAM : KISHORE C. SANT, J.**

**DATE : 18TH JANUARY 2024.**

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**PC:**

1.                      Heard the parties.
2.                      This application is moved for suspension of sentence and release of the applicant on bail.
3.                      The applicant is convicted by the Special Judge under POCSO Act, Greater Mumbai in Special Case (POCSO) No. 288 of 2018. The applicant is held guilty for the offences punishable under Sections 6, 10 and 12 of POCSO Act. Applicant is directed to suffer imprisonment for 10, 5 and 1 year, respectively there sections. The

applicant is also convicted for the offence punishable under sections 354, 376(1) and 354-A of Indian Penal Code.

4. Learned Advocate for the applicant mainly submits that out of ten years sentence, the applicant has suffered more than five years and ten months. The applicant was in jail during the trial. Learned Advocate has also argued the case on merits pointing out the discrepancy between the statements of mother of the victim and the victim. The mother of the victim in her deposition stated that she was informed by the school teacher namely Bharati Patil about the complaint made by the victim whereas victim has given name of another teacher Mrs. Padval. Thus there is a variance. He submits that neither of these two teachers have been examined by the prosecution. So far as sentence is concerned, except the offence punishable under section 5 he has suffered the complete sentence under other sections of the POCSO and pressed for suspension of sentence.

5. Learned APP vehemently opposes the application stating that the victim was only 11 years of age i.e. below 12 years at the time of incident. If the accused is released on bail it would give wrong message to the society. Victim may again go in fear and thus prays for rejection of the bail and suspension of sentence.

6. Learned advocate appointed through legal aid also vehemently opposes the application stating that there are serious allegations. The accused was in fact, a trusted person as appears from the depositions of mother of the victim and victim and prays for rejection

of this application.

7. This Court finds that as noticed from the depositions of mother of the victim and victim, there are allegations made against the applicant however he has already undergone more than five years and ten months of sentence out of ten years and still he is in jail. It is not certain as to how much time it will take for the appeal to be heard on merits. Presently appeals of years 2016-2017 are going on where the accused persons are in jail.

8. Considering these aspects, this Court finds that this application needs to be considered sympathetically. Hence, the following order:

### **ORDER**

- i) The application is allowed.
- ii) Substantive sentence awarded by the Special Judge under POCSO Act, Greater Mumbai in Special Case (POCSO) No. 288 of 2018 is suspended.
- ii) The applicant shall be released on bail on furnishing P.R. bond of Rs. 30,000/- and one or more solvent sureties in the like amount. Subject to condition that if the amount of fine is not deposited the same shall be deposited in the trial Court.
- iv) The appellant shall mark his presence before the concerned Police Station once in a month

as per the convenient time of the concerned Police Station In-charge.

v) The applicant shall not try to contact the victim or any of the witnesses.

vi) The applicant shall keep informed concerned Police Station about his residential address, mobile number etc and other contact details till the final disposal of the appeal.

9. The application stands disposed off.

10. The learned Advocate for the respondent has been appointed through legal aid and hence, she would be entitled to her professional fees as per rule.

**(KISHORE C. SANT, J)**