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

**INTERIM APPLICATION NO.1829 OF 2023
IN
CRIMINAL APPEAL NO.566 OF 2023**

Santu Bijiya Patel ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

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

CORAM : KISHORE C. SANT, J.

DATE : 3rd APRIL, 2024

PC.

1. Heard learned advocate for the Applicant and learned APP

2. This Application is filed seeking suspension of sentence and release of the Applicant on bail. Applicant is convicted by Special Judge under POCSO Act in POSCO Special Case No.381 of 2016 for the offence punishable under Section 10 of POCSO Act and is sentenced to suffer RI for 5 years and to pay fine of Rs.5000/-, in default to suffer SI for one month.

3. Learned advocate for the Applicant mainly submits that a sentence is a short sentence of 5 years. Out of that sentence, he

has suffered more than one year, as the Applicant is taken in custody on the date of judgment on 22.03.2023. During the trial, Applicant was on bail and there is no complaint of misuse of liberty. There are no criminal antecedents.

4. Learned APP opposes the Application stating that the victim was minor girl of 9 years at the time of incident and she is inappropriately touched by the accused/Applicant. Now there is clear findings against the accused. In the alternative, he submits that certain conditions be imposed.

5. Looking to the fact that sentence is a short sentence and the Applicant has already undergone more than one year, this Court is inclined to allow the Application. Considering other aspects also, it is seen that Applicant was on bail during trial. There is no complaint of misuse of liberty. The fine amount is also paid. Hence, the following order :-

- i) The Application stands allowed.
- ii) The sentence of the Applicant awarded by learned Special Judge under POCSO Act, Greater Bombay *vide* judgment dated 22.02.2203 in POCSO Special Case No.381 of 2016 for the offence punishable under Section 10 of POCSO Act stands suspended pending the Appeal.
- iii) Applicant shall be released on bail on furnishing PR bond and one solvent surety in the sum of Rs.15,000/-.

- iv) Applicant shall not enter the area of Bhandup and shall not contact the victim and other witnesses.
 - v) Applicant shall keep informed to the concerned Police station of his address and mobile number etc.. In case there is any change in above-mentioned contact details, same shall be immediately informed to the concerned Police station.
6. With this, the Application stands disposed of.

[KISHORE C. SANT, J.]