

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1714 OF 2023

IN

CRIMINAL APPEAL NO.227 OF 2021

Vinodkumar Laltaprasad Jaiswal : Applicant/Appellant

Vs.

The State of Maharashtra & Anr. : Respondents

Adv. K. R. Singh, for the Applicant/Appellant.

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

Adv. Grishma Lad a/w Adv. Aishwarya Bapat for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 12TH FEBRUARY, 2024

PC. :

1. Heard.

2. This is second Application by the Applicant seeking suspension of the sentence and is released on bail. His earlier Application bearing Interim Application No.2701 of 2021 came to be rejected by order dated 15th November, 2021. This Court while rejecting the Application had gone through the record and proceedings. Considering the Application on merits, this Court observed that there is material against the Applicant. It is further observed that though the relationship between the Applicant and

the Victim was consensual still the Victim was minor falling in the definition of child within the meaning of Section 2(d) of the POCSO Act. No any change in circumstances is pointed out, this Court do not agree to the submissions of the learned Advocate that the Court can still consider merits of the matter and reconsider the Application. He also submits that certain aspect involved in the Appeal were not pointed out to the Court while passing the order on the first Application. These submissions also cannot be accepted as from the order, it is seen that Court had considered the R & P.

3. Learned Advocate has further relied upon order passed by this Court in Bail Application No.997 of 2022 dated 26th April, 2023. In that case, this Court had granted bail to the Accused. Consider that the boy was of 22 years of old at the time of incident. It was further observed that the object of POSCO Act is not to punish minors in romantic or consensual relationship. This order however, was passed on an Application for bail during the trial. In the present case now there is conviction recorded against the present Applicant.

4. Learned Advocate for the Respondents vehemently opposes the Application. The Learned APP also argued that this Court has passed an order by considering the merits of the matter. This Application cannot be

considered by reconsidering the same on merits. The Application be rejected.

5. Considering that this Court finds that no case is made out allowing the Application the same is dismissed.

6. Since the Applicant is in jail since last 4 years the Appeal be listed on board on 22nd April, 2024.

(KISHORE C. SANT, J.)