

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1991 OF 2023
IN
CRIMINAL APPEAL NO.765 OF 2023

Ahmed Husain Imamuddin

.. Applicant

vs.

State of Maharashtra & Anr.

.. Respondents

Mr. Prashant P. Jadhav with Syed Shabana Ali for the Applicant.

Mr. J. P. Yagnik APP for the Respondent No.1-State.

Mr. Mohammad Taha Shaikh for the Respondent No.2.

CORAM: A. S. GADKARI AND
SHYAM C. CHANDAK, JJ.

DATE : 9th FEBRUARY, 2024

P. C.:-

1) This is an Application for suspension of sentence and releasing the Applicant on bail.

2) Perusal of evidence on record *prima facie* indicates that, except information given by the victim (PW.2) to the Medical Officer (PW.4) at the time of medical examination that, it is the Applicant i.e. father of the Applicant who had sexual intercourse with her, there is no other material to

accept the theory of 'proof beyond reasonable' doubt against the Applicant. The victim was aged about 16 years on the date of alleged commission of offence and was about 18 years on the date of recording of her evidence by the trial Court. The mother of victim and wife of the Applicant had also not stated anything beneficial to the prosecution in her testimony. The Applicant is behind bars since 26th June 2018.

3) In view the of above, during the pendency of present Appeal, we are inclined to suspend the substantive sentence imposed upon the Applicant and release him on bail.

3.1) Hence, the following order :-

i) Applicant be released on bail in POCSO Special Case No.121 of 2018, arising out of C.R.No.I-41 of 2018 registered with Shantinagar Police Station, Taluka Bhiwandi, District Thane on his furnishing PR. bond of Rs.25,000/- with one or more local sureties in the like amount.

ii) After his release from jail and during pendency of the Appeal, the Applicant shall not enter the jurisdiction of Thane Police Commissionerate except marking presence to Shivaji Nagar Police Station, Bhiwandi, Thane, on every first Monday of every month from 10.00 am to 12.00 noon. After one year, the Applicant shall attend every first Monday of every month during pendency of the Appeal.

- iii) Before his actual release from jail, the Applicant shall submit the documents of his prospective residential address to Shivaji Nagar Police Station, Bhiwandi, Thane and/or to the trial Court.
- iv) Application is disposed off in the aforesaid terms.

(SHYAM C. CHANDAK,J.)

(A. S. GADKARI, J.)