

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

***INTERIM APPLICATION NO.1894 OF 2022
IN
APPEAL NO.800 OF 2022***

Maruti Kalu Kokare

... Applicant/Appellant

Versus

The State of Maharashtra and Anr.

... Respondents

.....

Mr.Abhay A. Jadhavar, Advocate for the Applicant/Appellant.

Mr.V.B. Konde – Deshmukh, Addl. P.P. for Respondent No.1–State.

Mr.Ajinkya Jaibhave, Advocate for Respondent No.2.

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***CORAM : REVATI MOHITE DERE &
MANJUSHA DESHPANDE, JJ.***

DATE : 11th JANUARY 2024

P.C. :

Heard the learned counsel for the parties.

2 By this Application, the Applicant seeks suspension of his sentence and enlargement on bail pending the hearing and final disposal of his aforesaid Appeal.

3 The Applicant *vide* judgment and order dated 20 January 2020, passed by the learned Special Judge and Additional Sessions Judge, Pune, in Special Case No.107 of 2013 has been convicted for the offences punishable under Sections 376 and 377 of Indian Penal Code (IPC) and Sections 4 and 6 of The Protection of Children from Sexual Offences Act, 2012 (POCSO Act). For the offence punishable under Section 376 of IPC, the applicant has been sentenced to suffer rigorous imprisonment for life and pay fine amount of Rs.10,000/-. In default of payment of fine, the applicant to further undergo rigorous imprisonment of six months.

- Perused the papers. The prosecution witnesses i.e. P.W.1, the mother of the victim girl (the complainant), as well as the victim girl, who is P.W.4, both, have turned hostile and as such, have not supported the prosecution case. P.W.1 in her cross examination has admitted that the FIR is correct, except that the accused had ravished and

raped her daughter. She has further admitted in her evidence that no person by the name Anna is residing in their vicinity. As far as P.W.4 is concerned, P.W.4 in her cross examination has admitted that Anna was not the brother of her father. She has further admitted that she was instructed the by police to give answers as given by her, when her statement under Section 164 statement was recorded in the Court.

- Even P.W.5, grandmother of the victim girl has turned hostile. The evidence of P.W.10, Assistant Chemical Analyser shows that DNA of the victim was not found on the clothes of the accused i.e. the applicant, the. The Applicant in custody for 10 years.

7 Considering the aforesaid, the Application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his aforesaid Appeal on the following terms and conditions.

:: ORDER ::

- (i) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/-, with one or two sureties in the like amount;
- (ii) The Applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till their appeal is finally disposed of;
- (iii) The Applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;
- (iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail;

7 The Application is allowed in the aforesaid terms
and is accordingly disposed of;

8 All concerned to act on the authenticated copy of
this order.

MANJUSHA DESHPANDE, J. *REVATI MOHITE DERE, J.*