

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

**INTERIM APPLICATION NO.2545 OF 2023
IN
CRIMINAL APPEAL NO.795 OF 2023**

Jiwa @ Rongya Gangaram Jadhav ..Applicant/Appellant
Versus
State of Maharashtra & Anr. ..Respondents

Mr. Saif Dingankar, for the Applicant/Appellant.
Mr. A. R. Patil, APP for the Respondent/State.
Mr. Siddharth Jagushte, for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 7th MARCH, 2024

PC.

1. This Application is filed for suspension of sentence and release of the Applicant on bail in connection with judgment and order dated 31st March, 2023 passed by Additional Sessions Judge, Ratnagiri in Special Case No.11 of 2022. Applicant is found guilty of the offence punishable under Sections 354, 354A of IPC and Section 7 r/w Section 8, Section 11 r/w 12 and Section 9(m) r/w Section 10 of POCSO Act. The sentences awarded are as below :-

Sections	Punishment	Fine	Punishment in default of payment of fine
354 of IPC	1 year	Rs.500/-	SI One month
354A of IPC	Rigorous imprisonment for 1 year	Rs.500/-	RI one month

7 r/w 8 of POCSO Act	3 years	Rs.1000/-	SI Six months
11 r/w 12 of POCSO Act	1 year	Rs.500/-	SI One month
9(m) r/w 10 of POCSO Act	5 years	Rs.2000/-	SI Six months

2. Applicant is acquitted of the offence under Section 3(c) r/w Section 4 of the POCSO. The compensation is directed to be paid to the victim. Learned advocate for the Applicant submits that the maximum sentence awarded is five years and to pay fine of Rs.2000/- and in default to suffer RI for six months. Learned advocate on instructions submits that the fine amount is already paid. Applicant was on bail during trial. There is no complaint of misuse of the liberty. There is no possibility of the Appeal coming up for final hearing in near future. Accused is 68 years of age. Since the date of judgment i.e. 31.03.2023, Applicant is in jail. He thus prays for suspension of sentence and release of the Applicant on bail.

3. Learned APP and learned advocate for Respondent No.2 vehemently oppose the Application. The submission is that Applicant was 66 years of age when he committed the offence. If he is released on bail that will have negative impact on the victim girl. The victim girl was only ten years and two months of age at the time of incident. The accused is neighbour of the victim. Learned advocate for the Applicant at this stage disputes this position and submits that accused is residing at different place. Learned APP

further makes submission that in case if the Applicant is to be released, stringent conditions be imposed upon him.

4. After hearing the parties, this Court finds that for about a year the Applicant is in jail. During the trial, he was on bail and there is no complaint of misuse of the liberty. Since the Applicant is in advanced age, it would not be desirable to keep him behind the bars. The sentence is short sentence and in view of judgment in the case of ***Bhagwan Rama Shinde Gosai and Ors Vs. State of Gujarat*** reported in ***(1999) 4 SCC 421***, sentence needs to be suspended. This Court also needs to take care of the victim. This Court therefore finds that it would be desirable to direct the Applicant not to enter in Takula Sangmeshwar, District Ratnagiri, except for attending Police Station. Hence, following order :-

- i) The Application stands allowed
- ii) The sentence awarded by learned Additional Sessions Judge, Ratnagiri in Special Case No.11 of 2022 stands suspended.
- iii) Applicant be released on bail on furnishing PR bond and solvent surety in sum of Rs.15,000/- and subject to payment of fine, if not paid.
- iv) Applicant shall not enter into Sangmeshwar Taluka, except for attending Police Station.

- v) Applicant shall attend concerned Police Station on first Sunday of every month.
 - vi) Applicant shall furnish his contact details including his mobile number to the concerned Police Station.
 - vii) If there is any change in any of the contact details, Applicant shall immediately inform to the concerned Police Station.
5. The Application stands disposed of.

[KISHORE C. SANT, J.]