

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

INTERIM APPLICATION NO. 2305 OF 2023

IN

CRIMINAL APPEAL NO. 425 OF 2022

Ketan Bhaskar Mhadeshwar

... Appellant/Applicant

Vs.

The State of Maharashtra & Anr.

... Respondents

Adv. A. S. Khandeparkar, Senior Advocate, a/w Adv. Rohit P. Mahadik, Adv. Rushikesh Bhagat, Adv. Vibhav Kulkarni, Adv. Saurabh Mittal, Adv. Farhan Shaikh, i/by Khandeparkar & Associates, for the Appellant/Applicant.
Mrs. M. R. Tidke, APP for State.

CORAM : KISHORE C. SANT, J.

DATE : 5th March, 2024

P.C.:-

1. The learned Advocate appointed by the High Court Legal Services Authority is absent on most of the dates. By Order dated 14th February, 2024, this court had infact clarified that the matter will be considered even in the absence of Advocate for Respondent No. 2 and the matter was adjourned to 21st February, 2024. Even on 21st February 2024 the learned Advocate for Respondent No. 2 did not appear. The Legal Services Authority was requested to appoint some other advocate and the Application was adjourned to 27th February 2024 by way of last chance. On 27th February 2024 the learned Advocate for the Respondent No. 2

appeared and again sought time. When today the matter is on board none appears for Respondent No. 2 in spite of earlier specific Orders. This Court is therefore proceeding with the matter with the assistance of learned APP and Advocate for the Applicant.

2. This Application is mainly pressed on the ground that the maximum sentence awarded is 10 years for the offence under Section 363 and 376(2) of Indian Penal Code and Section 3 r/w Section 4 of the Protection of Children From Sexual Offences Act, vide Section 235(2) of Code of Criminal Procedure.

3. It is pointed out that the Applicant is arrested on 10th April, 2018 and since then he is in custody. The learned Advocate relied upon the Judgment and Order in the case of ***Saudan Singh Vs. State of Uttar Pradesh reported in 2021 SCC online SC 3259.***

4. The learned APP opposes the Application stating that the offence is serious offence. The girl was minor accused is convicted.

5. Considering the above Judgment and since the Applicant has completed more than 50% of the sentence i.e. 6 years out of sentence of 10 years, this Court is considering the Application. Hence the following order:

ORDER

- a) The Application is allowed. The substantive sentence awarded by the learned Special Court (POSCO) Sindhudurg, in Special Case (POSCO) No. 24 of 2019 (Old Special Case No.

24 of 2018) dated 11th March, 2022, shall stand suspended till final disposal of the Appeal.

b) The Applicant shall be released on bail upon furnishing P. R. Bond and solvent surety in the sum of Rs. 15,000/- subject to deposit of the fine amount.

c) The Applicants shall furnish details of residential address and other contact details, such as mobile number etc. to the police station. If there is any change in the contact details the same to be immediately informed to the concerned police station.

d) The Applicant shall not try to contact the victim in any manner.

e) The Applicant shall attend the concerned police station on 15th March, 2024. He shall first visit on 15th March, 2024 and thereafter on 2nd Sunday of every alternate month.

7. The Application stands disposed of in the aforesaid terms.

(KISHORE C. SANT, J.)