

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

**INTERIM APPLICATION NO. 3095 OF 2023
IN
CRIMINAL APPEAL NO. 1013 OF 2023**

Sandip Jagannath Dharmak @ Chinchwadkar ... Appellant/Applicant

Vs.

The State of Maharashtra & Anr. ... Respondents

Adv. Satyajeet P. Dighe, for the Appellant/Applicant.

Mr. A. R. Metkari, APP for State.

CORAM : KISHORE C. SANT, J.

DATE : 12th March, 2024

PC.:-

1. Heard learned Advocate appointed for the Appellant and learned APP.

2. This Application is preferred with a prayer to suspend the sentence awarded by the learned Special Judge under POCSO Act, Pune, in Special POCSO Case No. 405/2015 dated 29.12.2022. The Applicant is convicted for the offence punishable under Section 67 of the Information Technology Act is sentenced to suffer rigorous imprisonment for a period of Two and Half years and to pay fine of Rs. 1,00,000/- in default further S.I. for six months he is also convicted for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 Act is sentenced to suffer rigorous imprisonment for a period of Two and Half

years and to pay fine of Rs. 25,000/-, in default to suffer further S.I. for one month.

3. Appeal is already admitted. Learned advocate submits that during the trial the Applicant was arrested on 8th October, 2015, and he was released on Bail by an Order dated 6th June, 2016. The Applicant was in jail for 10 months during the trial and from the date of Judgment i.e. 29th December, 2022, he is again taken in custody. Thus now for about 22 months the Applicant is in jail. He is not in a position to deposit the entire amount of fine. He could not even engage a private lawyer. He thus submits that considering the position the Applicant needs to be released on bail.

4. The learned APP vehemently opposes the Bail Application he submits that the offence is under the provisions of POCSO and Information Technology Act there is clear finding recorded against the Applicant and prays for rejection of this Application.

5. This Court finds that a sentence is a short sentence only of two and half year even out of that period he has undergone more than 22 months in jail. It is seen that the Applicant is not in a position to pay the entire fine amount. This Court finds that it would be a short sentence it would be desirable to release the applicant on bail on certain terms and conditions. Hence, following Order:-

ORDER

a) The Application stands allowed and disposed of.

b) The sentence as awarded by the learned Special Judge under POCSO Act, Pune in Special Case No. 405/2015 dated 29.12.2022, stands suspended.

c) Applicant be released on bail on furnishing PR bond and solvent surety in the sum of Rs. 15,000/- and subject to payment of Rs. 15,000/- towards fine amount within three months.

d) Applicant shall not contact the victim.

e) Applicant shall furnish his contact details including his mobile number to the concerned Police Station.

f) If there is any change in any of the contact details, Applicant shall immediately inform to the concerned Police Station.

6. The Application stands disposed of.

(KISHORE C. SANT, J.)