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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3105 OF 2023
IN
CRIMINAL APPEAL NO.1261 OF 2023

Aasif Rafik Nadaf : Applicant
Vs.
The State of Maharashtra & Anr. : Respondents

Adv. Vivek Joshi, i/by Adv. Vikash Shivarkar, for the Applicant.
Mrs. M. R. Tidke, APP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 14TH MARCH, 2024

PC. :

1. Heard.
2. This Application is for suspension of sentence and release of the Applicant on bail. The Applicant is convicted by the learned Additional Sessions Judge and Special Judge under POCSO, Act, Pune dated 2nd March, 2023 in Special Case No.203 of 2018. He is held guilty for the offences punishable under Sections 376 (2) (j) (n) of the Indian Penal Code and Sections 4, 6 & 12 of the POCSO, Act. He is sentenced as below:-

Sr. No.	Sections	Punishment	Fine Amount
1.	376 (2) (j) (n) of IPC	10 years	Rs. 5000/-, in default, to undergo S.I. for three months.
2.	4 r/w. Section 3 of POCSO Act	10 years	Rs.5,000/-, in default, to undergo S.I. for three months.
3.	6 r/w. Section 5 of POCSO Act	10 years	Rs.5,000/-, in default, to undergo S.I. for three months.
4.	12 r/w. 11 of POCSO Act	3 years	Rs.2,000/-, in default, to undergo S.I. for two months.

3. It is argued that there is no sufficient evidence to convict the Applicant. It is further argued that the relations were consensual. The victim was more than 17 years of age at the time of incident. The Applicant thus prays for allowing the Application.

4. Learned APP vehemently opposes the Application submitting that the Accused has committed rape on multiple occasions from August, 2016 till January, 2017. The accused was taking classes of Karate when the victim used to attend the classes. He is a married person having a daughter. The date of birth of the victim is proved as 07/10/1999. The Accused has taken disadvantage of his position. Learned Trial Court has appreciated the evidence and has passed the judgment.

5. In the present case Applicant was on bail during the trial. He

is taken in custody on the date of judgment i.e. on 2nd March, 2023. This sentence is on 10 years.

6. Considering the act done by the Applicant this Court finds no case is made out to allow the Application.

7. The Application is therefore disposed of.

(KISHORE C. SANT, J.)