

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

**INTERIM APPLICATION NO.4143 OF 2023
IN
CRIMINAL APPEAL NO.314 OF 2024**

Anwar Moin Shaikh ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Ms. Nilima Sarvagod, for the Applicant.
Mr. B. V. Holambe Patil, APP for the Respondent/State.
Mr. Mahesh H. Chandanshiv, Appointed Advocate for the
Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 8th MAY, 2024

PC.

1. Heard learned counsel for the parties.
2. This Application is filed by the Appellant/accused, who is convicted for the offence punishable under Section 370 of IPC and Sections 4 and 5 of the Immoral Traffic (Prevention) Act. Applicant came to be acquitted from the offence punishable under Section 376 of IPC and Sections 4 and 8 of the POCSO Act as well as Section 3 of the Immoral Traffic (Prevention) Act.
3. The maximum punishment awarded is for the offence punishable under Section 370 of IPC. Applicant is directed to suffer

RI for 10 years and to pay fine of Rs.20,000/- and in default to suffer RI for four months. For the offence under Sections 4 and 5 of the Immoral Traffic (Prevention) Act, Applicant is directed to suffer 7 years RI and to pay fine of Rs.15,000/-, in default to suffer further RI for three months.

4. Learned advocate for the Applicant submits that the Applicant is taken in custody during the course of investigation itself i.e. November, 2017 and since then he is in custody. Applicant has thus suffered more than 70% of the sentence. In view of the judgment in case of ***Saudan Singh Vs. State of Uttar Pradesh*** reported in ***2022 SCC OnLine SC 697***, he submits that the Applicant needs to be released on bail by suspending the sentence.

5. Learned APP as well as learned advocate for the Respondent No.2 vehemently oppose the prayer.

6. This Court is however inclined to allow the Application, for the reasons that the Applicant has suffered more than six and half years sentence out of ten years. Hence, the following order is passed :-

- i) The Application stands allowed.
- ii) The substantive sentence awarded by learned Special Judge, POCSO Act, Mumbai dated 24.09.2019 in Special Case No.139 of 2018 stands suspended.

- iii) Applicant shall be released on bail on furnishing PR bond and one solvent surety in the sum of Rs.15,000/-.
- iv) Applicant shall report to the concerned Police Station once in every month i.e. first Sunday of every month between 11:00 a.m. to 01:00 p.m.
- v) Applicant shall keep informed his contact details including mobile number to the concerned Police Station. If there is any change in the above mentioned contact details, Applicant shall immediately inform the same to the concerned Police Station.

7. With this, the Application stands disposed of.

[KISHORE C. SANT, J.]