



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1757 OF 2022
IN
CRIMINAL APPEAL NO. 402 OF 2022**

**ARBAJ BHAIYYA KHAN
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

....
Advocate for Applicant : Mr. D.S. Ingole h/f Mr. Nilesh S. Ghanekar
A.P.P. for Respondent-State : Mr. A.V. Lavte
Advocate for Respondent No.2 : Ms. Ashwini A. Lomte (Appointed)

...

**CORAM : SANDIPKUMAR C. MORE AND
MEHROZ K. PATHAN, JJ.**

DATED : 23rd SEPTEMBER, 2025

ORDER:-

1. By way of this application, appellant No.2 i.e. Arbaj S/o Bhaiyya Khan is seeking suspension of his substantive sentence of imprisonment along with his release on bail, during the pendency of this appeal.
2. Learned counsel for respondent No.2/victim strongly opposed the application.
3. It is to be noted that the present applicant has been convicted by the learned Judge Special Court, only under Section 506 of the

Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 1,000/- with default clause. The learned counsel for the applicant pointed out that the learned Judge of Special Court, even after conviction, had released him on bail and the said order was also continued by this Court till 19.10.2022. However, there is no continuation of the earlier order. In view of the same, the learned A.P.P. was requested to verify whether the present applicant is in jail, after discontinuation of earlier order of releasing him.

4. Today, learned A.P.P. clarified that the applicant is still out of jail, though the earlier interim relief is not continued by this Court. It is significant to note that, this Court had already suspended the substantive sentence of imprisonment of the main accused i.e. appellant No.1 Sarfaraj Iqbal Shaikh, who has been convicted for the offence punishable under Section 376(2)(j),(n) of Indian Penal Code. Therefore, considering the earlier release of present applicant, the application stands allowed and the substantive sentence imposed upon this applicant by the learned trial Judge in Special Case (POCSO) No. 97 of 2021, is hereby suspended during the pendency of this appeal and the appellant Arbaj Bhaiyya Khan be released on bail on executing personal bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) along with one surety in the like amount.

5. Application is accordingly disposed of.

6. High Court Legal Services, Sub Committee, Aurangabd shall pay the fees of learned Advocate for respondent No.2/ victim, as per schedule.

(MEHROZ K. PATHAN)
JUDGE

(SANDIPKUMAR C. MORE)
JUDGE

Y.S. Kulkarni