

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

Interim Application No.4777 of 2024

In

Criminal Appeal No.1231 of 2024

Devanand Balkrishna Bagade
Age-38 years, Occ-Labourer,
R/a- Sutar Mala, 1st Lane, Ichalkaranji,
Taluka Hathkanangle, District Kolhapur ... Applicant

versus

1. The State of Maharashtra (at the
instance of Public Prosecutor High
Court Mumbai)
2. Miss 'S' through Mrs. 'B'
Age-major, Occ-Labourer,
R/a-through Ichalkaranji Police Station,
Ichalkaranji, Taluka Hathkanangle,
District Kolhapur- 416115 ... Respondents

Mr Tejas Hilage, for the applicant.

Dr Ashwini A Takalkar, APP, for respondent No.1/ State.

Ms Ilsa Shaikh, for respondent No.2 (through Legal Aid).

Coram: R.N. Laddha, J.

Date: 4 February 2025.

P.C.:

. The applicant faced trial in Special (POCSO) Case No.3
of 2018 for the offences punishable under Sections 354-A(2)

and 342 of the Indian Penal Code and Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012 ('POCSO Act'). The applicant was sentenced to suffer rigorous imprisonment for two years for the offence under Section 354-A(2) of the Indian Penal Code, simple imprisonment for one month for offence punishable under Section 342 of the Indian Penal Code and rigorous imprisonment for three years and fine of Rs.3000/- for offence punishable under Section 8 of POCSO Act and rigorous imprisonment for five years and fine of Rs.5000/- for the offence punishable under Section 10 of POCSO Act, with a default stipulations.

2. Dissatisfied, the applicant preferred the present appeal before this Court and by the instant application, the applicant seeks suspension of sentence and his release on bail.

3. Mr Tejas Hilage, the learned Counsel appearing on behalf of the applicant, highlights the alleged deficiencies in the prosecution's case, arguing that there is significant delay in lodging the FIR, which the prosecution has failed to explain. The learned Counsel further contends that the victim's statement recorded under Section 164 contradicts her testimony before the Court. Additionally, the victim has denied the location of the incident. The applicant was also on bail

throughout the trial. The applicant is behind the bar for more than four months. The applicant is ready to abide by all the conditions this Court imposes, if released on bail, including the condition to stay away from the jurisdiction of the concerned police station.

4. Ms Ilsa Shaikh, the learned Counsel for respondent No.2, and Dr Ashwini Takalkar, the learned Additional Public Prosecutor for respondent No.1/State, opposing the applicant's request, emphasises the gravity of the offence. They contend that the evidence on record strongly supports the prosecution's case and does not warrant suspension of sentence and the applicant's release on bail.

5. This Court has given anxious consideration to the rival contentions and perused the record.

6. In the present case, the applicant is required to undergo maximum sentence of five years for offence punishable under Section 10 of the POCSO Act. During the pendency of the trial, the applicant was enlarged on bail. The revision has been filed in 2024 and it is unlikely to be heard immediately. Moreover, the applicant is ready to stay away from the jurisdiction of the concerned police station where the victim resides during the pendency of the appeal. In these

circumstances, a case is made out for grant of suspension of sentence, pending the appeal and release on bail. Hence, the following order:

ORDER

(i) The sentence imposed upon the applicant vide judgment and order dated 20 September 2024 by Special (POCSO) Judge, Ichalkaranji, in Special (POCSO) Case No.3 of 2018, is suspended during the pendency of the appeal, subject to the applicant executing a PR Bond of Rs.25,000/- and furnishing one or more sureties in the like amount.

(ii) The applicant shall not enter within the jurisdiction of the Police Station where the victim resides till the pendency of the appeal.

7. The interim application stands disposed of accordingly.

(R.N. Laddha, J.)