

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 324 OF 2024
IN
CRIMINAL APPEAL NO. 128 OF 2024

Nagesh Jatuboud Gauda @ Anna ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Sarvajit Bharatsham Patil for the Applicant.

Ms. Sakshi P. Chavan Appointed Adv For Respondent No.2.

Mrs. P.P.Shinde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE &
DR. NEELA GOKHALE, JJ.
DATE : 24th MARCH, 2025

P.C. :

1. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.

2. The applicant, vide Judgment and Order dated 19th December, 2022, passed by the learned Special Judge under the POCSO Act, in POCSO Special Case No. 126 of 2021, has been convicted for the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012. For the said offence, the applicant has been sentenced to suffer imprisonment for life and to pay fine of Rs.10,000/-, in default of payment of fine, simple imprisonment for one year.

3. Perused the papers, in particular, the statement of the prosecutrix i.e. the evidence of PW-2. PW-2 aged 11 years has disclosed in para 3 of her evidence how the incident of sexual assault took place on her. She has stated that the applicant called her home and sexually assaulted her and thereafter, threatened her with dire consequences if she disclosed the incident to anyone. There is absolutely no cross on para 3 i.e. to the said disclosure made by the prosecutrix *vis-a-vis* the sexual assault on her by the accused. On the contrary, it has come in the cross-examination as under :

“I did not tell the dirty incident to my mother because he had threatened me. It is true to say that the day when incident happened there is pain in my toilet part. It is true to say that it was paining to me every day thereafter.”

4. The aforesaid evidence is *prima facie* sufficient and shows the complicity of the applicant in the alleged crime.

5. Considering the aforesaid and considering the manner in which, the applicant has sexually assaulted the 11 years old girl and the evidence in this regard, this is not a fit case to enlarge the applicant on bail.

6. Application stands rejected.

DR. NEELA GOKHALE, J.

REVATI MOHITE DERE, J.