

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3306 of 2024
in
CRIMINAL APPEAL NO. 469 of 2025**

Sanjay Madhukar Tambadi

... Applicant/s
Appellant/s

versus

The State of Maharashtra and anr.

.... Respondent/s

Mr. Nitin Gaware Patil with Mr. Harsh Rathod, Advocate for the Applicant/Appellant.

Mr. A. S. Gawai, APP for Respondent No.1-State.

Ms. Aishwarya Sharma, Advocate for Respondent No.2.

Mr. Subhash Goilkar, PSI, Manor Police Station, District-Palghar, present.

CORAM : R. M. JOSHI, J.

DATE : 10th NOVEMBER, 2025.

P.C. :

1. This application is for suspension of substantive sentence and enlargement of applicant/appellant on bail in connection with the conviction recorded against the appellant by the impugned judgment and order dated 24th February 2023 passed in Special Case (POCSO) No.2 of 2021 whereby the accused is sentenced to suffer 12 years imprisonment with fine.

2. Learned counsel for the applicant/appellant submits that the applicant/appellant is behind the bar for almost a period of 5 years. It is his submission that prima facie consideration of evidence on record

indicates that there is delay of 3 days in lodging of the report in respect of the incident allegedly occurred on 21st October 2020. It is his submission by referring to the testimony of the victim that there is a possibility of false implication of the appellant in the crime owing to the reason that the appellant was the person who had assaulted one Mr. Kishor and after the said incident of assault the victim as well as her family members have stopped communication with the appellant. It is his further submission that on 23rd October 2020, there was a report lodged by the appellant against the father of the victim and it is only thereafter the report in question came to be registered. He drew attention of this Court to the evidence of the Medical Officer -Dr.Chavan who had examined the victim. It is his submission that the Medical Officer has accepted the possibility of causing of the injury to the private part while playing. The Medical Officer has also deposed about finding more external injuries on the person of the victim. It is his submission that if the case of the victim is to be accepted to be true that she was dragged in an agricultural field for about 20 feet, appearance of at least a single bruise is necessary which is absent herein. With these contentions, it is his submission that the appellant has a good case to be made out during the course of final hearing of the appeal.

3. Learned counsel for respondent No.2/victim and learned APP opposed the application essentially on the ground that the sole testimony of the victim would be sufficient to maintain conviction against the

appellant. It is submitted that the testimony of the victim is supported by the testimony of her aunt – PW3. They further pointed out that the age of the victim was 16 years at the time of the incident.

4. In order to seek suspension of the sentence and enlargement on bail, the appellant is required to prima facie make out the case that during the final hearing of the appeal, he would have a reasonable case for seeking acquittal.

5. The incident has occurred on 21st October 2020, whereas the report is lodged on 23rd October 2020. It cannot be ignored that before lodging of the report, there was complaint made to the police by the appellant against the father of the victim. This Court is conscious of the fact that in every case the delay caused in lodging of the FIR may not become fatal to case of prosecution. However, if overall facts and circumstances indicates that it could be a case of false implication as claimed by the appellant and the same cannot be ignored completely. The victim, in her testimony, has accepted about not being happy with the alleged assault caused by the appellant on Kishore. Similarly, she accepts that the appellant has lodged complaint with police against her father. There is no dispute about the fact that the report in question came to be lodged thereafter. In this backdrop, the evidence of the Medical Officer assumes importance, wherein the Medical Officer accepts the possibility of causing of injury to the private part of the victim on account of sports etc. The Medical Officer has candidly accepted of their being

absolutely no external injuries on the person of the victim. This Court finds prima facie substance in the contention of learned counsel for the appellant that if someone is dragged for 20 feet in an agricultural field, there is every possibility that at least some bruises will occur on such person dragged. In the light of these facts, the appellant has a reasonable case to make out during the final hearing of the appeal. The appellant is behind bar for last 5 years and the appeal is not likely to be heard shortly. Appellant has no criminal history. He is not likely to flee from justice.

6. In view of the above observations, the appellant is entitled for the suspension of sentence and enlargement on bail. Hence, the following order :

O R D E R

1. The application is allowed.
2. The substantive sentence imposed against the appellant by the impugned judgment and order dated 24th February 2023 in Special Case (POCSO) No.2 of 2021 passed by the Additional Sessions Judge, Palghar, stands suspended till the decision of the appeal.
3. The appellant be enlarged on bail on furnishing P.R. bond of Rs.15000/- with one surety in the like amount.
4. The appellant is directed not to contact the victim in any manner whatsoever.

5. Any breach of these conditions will forthwith result into vacating of this order and the appellant shall be required to undergo the remaining sentence.

The application stands disposed of in above terms.

7. It is clarified that above observations are made on prima facie consideration of the material on record and the same shall not bind the parties during the final hearing of the appeal.

(R. M. JOSHI, J.)