

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.789 OF 2025
IN
CRIMINAL APPEAL NO.191 OF 2025

Vijay Vilas Mohite

.... Applicant

V/s.

The State of Maharashtra & Anr.

.... Respondents

NILAM
SANTOSH
KAMBLE

Digitally signed
by NILAM
SANTOSH
KAMBLE
Date: 2025.11.10
18:18:43 +0530

Mr.V.H. Narvekar, for the Applicant.

Mr.A.S. Gawai, APP, for Respondent-State.

Ms.Kirti Godbole, Appointed Advocate, for Respondent No.2.

CORAM : R.M. JOSHI, J.

DATE : 10th NOVEMBER 2025

P.C:-

. This Application is for suspension of sentence and enlargement of the Appellant on bail in connection with the Special POCSO Case No.347 of 2023, wherein by judgment and order dated 22nd October 2024, the Appellant is convicted for the offences punishable under Section 376 of the Indian Penal Code, 1860 ('IPC' for short) and Section 4 of the Protection of Children From Sexual Offences Act, 2012 ('POCSO' for short) and sentenced to suffer RI for 10 years

with fine.

2. The learned counsel for the Appellant submits that even if case of the prosecution accepted as it is, in any event the case of the victim before Trial Court is that she has sexual relations with the Appellant only once, though she does not states so specifically as she became unconscious. It is claimed that, neither before nor after the incident there were any time physical relations between them. It is his submission that, in this backdrop the fact that the victim becoming pregnant and DNA of child excluding Appellant to be biological father assumes important. It is his submission that, in such circumstances, the Appellant has good case on merit and since there is no possibility of Appeal be taken up for final hearing in short period of time he deserves to be enlarged on bail.

3. The learned counsel for Respondent No.2-Victim and learned APP opposed the Application. It is their contention that the sole testimony of the victim would be sufficient to convict the Accused. It is argued that, there is no dispute about the fact that victim was minor at the relevant

time.

4. At the outset, it needs to be considered as to the case the prosecution has sought to make out against the Appellant before Trial Court. *Prima facie* perusal of the record indicates that, the victim claims to have visited the house of the Appellant on a faithful day. She became unconscious after she eating food article offered by the Appellant. She claims to have not known as to what happened to her in the said night. She however could realized that something wrong was done with her. Admittedly there is no evidence led by the prosecution with regard to the present Appellant having sexual relations with the victim prior to the incident or any time after the incident. Moreover, there is no evidence to show that victim has disclosed her relationship with any other person during the course of the trial. Since, she became pregnant in absences of any other case being made out therefore, sexual relationship with some one else could be considered.

5. In light of these facts, when the DNA test is negative and showing the Appellant to be not the biological

father of the child delivered by the victim. Having regard to these facts it could be said that the Appellant prima facie could make out a reasonably good case for his acquittal during final hearing of Appeal. Since, the Appeal could not be heard in short period of time, this is a fit case for suspension of sentence, accordingly the Application stands allowed in following terms.

ORDER

(i) The substantive sentence imposed upon the Appellant by judgment and order dated 22nd October 2024 passed in Special POCSO Case No.347 of 2023 stands suspended till decision of the Appeal.

(ii) The Appellant-Vijay Vilas Mohite be released on bail on furnishing PR Bond of Rs.15,000/- with one surety in the like amount.

(iii) The Appellant is prevented for contacting the victim in any manner whatsoever. If any breach of the condition would result, the Appellant would taken into custody forthwith and

having been called upon to undergo the sentence.

(iv) Bail before the Trial Court.

(R.M. JOSHI, J.)