

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1040 OF 2025****IN****CRIMINAL APPEAL NO. 358 OF 2025**

Rangrao Kondiba Patil

... Applicant

Versus

State of Maharashtra and Anr.

... Respondents

.....

Ms. Siddh Vidya a/w. Ms. Divya Maniar i/b. Siddh Vidya & Associates,
Advocates for the Applicant.

Mr. Chandrakant D. Mali, APP for the State.

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

CORAM : R. M. JOSHI, J.**DATED : 4th NOVEMBER, 2025.****P.C. :**

1. Heard learned counsels for both sides.
2. This application is for suspension of sentence imposed against the appellant by the Judgment and Order dated 10.07.2023 passed in POCSO Case No. 497 of 2020 by designated Judge under the POCSO Act.
3. Prima facie consideration of record indicates that there was allegations against the appellant of inflicting grave consensual assault on the victim aged about 8 years. The appellant is resident of the same area and as per the case of the prosecution was acquainted to the victim as well as the family. During the course of the trial the victim as well as other witnesses including Medical Officer were examined. The trial has

culminated into the conviction of the appellant whereby he is sentenced to suffer rigorous imprisonment of 20 years along with fine.

4. The present application is filed by the appellant on twin contentions, firstly claiming that he is in jail since 01.02.2020 and that there is no likelihood for the appeal being taken up for hearing in near future. Secondly, on merit it is argued on behalf of the appellant that there is no identification parade conducted by the Investigating Agency in order to hold that appellant is perpetrator of the crime. It is argued by referring to the evidence of the victim that after lapse of about 1½ year the identification of the accused is sought to be done and particularly in view of answers to after question in cross examination of victim, her testimony does not become reliable. It is further argued that there are inconsistencies interse in the statements of the witnesses and the evidence led before the Special Court. On these amongst other submissions, she seeks suspension of sentence and enlargement of the convict on bail.

5. Learned counsel for the victim as well as learned APP opposed the application by contending that this is not the case wherein the accused was unknown to the victim and hence identification parade was not essential. In this regard, attention of the Court is drawn to the examination in chief as well as cross examination conducted of the victim which according to them indicates that there was no reason for

misidentifying the accused to be the person who committed the said crime. It is further argued that the evidence of victim is duly supported by her mother and cousin and that it guilt of accused /appellant has been established beyond doubt.

6. The law on the point of suspension of sentence and its parameters are settled by Judgments of Hon'ble Supreme Court. While deciding the application for suspension of sentence, the fixed term of sentence could not be sole criterion. The Court is required to consider the nature and gravity of offence and needs to see as to the chances of the success in the appeal on prima facie appreciation of the record / evidence. Needless to say that such findings would be tentative in nature and could not affect the rights and contentions of rival sides during final hearing and decision of the appeal on merit.

7. Without recording any findings on the submission made across the bar, prima facie perusal of the record indicates that there is substance in the contention of the learned counsel for the respondent and leaned APP with regard to the identification of the appellant. Apart from this, there is no case sought to be made out as to the reason for implication of the appellant in the crime. Falsely, undoubtedly, offence is grave and girl aged 8 years is ravished. Having regard to the evidence on record and in the facts of the case, this Court finds that the parameters for suspension of

substantive sentence are not met in this case. Consequently, this Court finds that no case is made out for the appellant for suspension of sentence.

8. In the result, application stands dismissed.
9. The hearing of appeal however is expedited.

(R. M. JOSHI, J.)

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