

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1207 OF 2025
IN
CRIMINAL APPEAL NO.405 OF 2025

Aadil Javed Shaikh

.... Applicant

V/s.

The State Of Maharashtra And Anr

.... Respondents

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Ms.Falguni Brahmabhatt a/w Mr.Girish Palv and Mr.Adbul
Kader Lokhadwala, for the Applicant.

Mr.H.J. Dedhia, APP, for Respondent-State.

Ms.Trupti Khamkar, Appointed Advocate, for Respondent No.2.

CORAM : R.M. JOSHI, J.

DATE : 21st NOVEMBER 2025

P.C:-

. Heard both sides.

2. This Application is for suspension of sentence of
the Appellant/Applicant and for his enlargement on bail in
connection with the conviction recorded against him by
judgment and order dated 27th November 2024 passed in
Special Case No.84 of 2019 whereby the Appellant/Applicant
is convicted for the offences punishable under Section 376 of

the Indian Penal Code ('IPC' for short) and under Section 6 of Protection of Children from Sexual Offences Act, 2012 ('POCSO' for short) and sentenced to suffer RI for ten years imprisonment with fine.

3. The learned counsel for the Applicant submits that First Information Report in respect of the alleged incident occurred on 15th October 2017 came to be lodged on 30th August 2018. It is submitted that, even if factum of delay is ignored, there is no evidence to show that the involvement of the Appellant/Applicant in this crime. It is submitted that, the testimony of the victim does not indicate the commission of sexual assault by the Appellant/Applicant on the victim. It is argued that the witness Samreen who told the victim about presence of the present Appellant/Applicant along with co-accused after the victim regain consciousness is not examined during trial. It is submitted that, the during the trial the Appellant/Applicant was on bail and since the Appeal is not likely to be heard in reasonable period of time, and the contention is for fix term, Appeal shall become infructuous.

The Appellant/Applicant is entitled for enlargement on the bail.

4. The learned counsel for Respondent No.2-victim as well as APP opposed the Application by stating seriousness of the crime. It is their contention that, the victim was 14 years at the time of the incident occurred. Attention of the Court was drawn to the evidence of victim and Dr.Save who treated the victim after the incident, to argue that the victim was in mental trauma and therefore delay cannot be treated as vital. It is case of the prosecution that the statement of the victim recorded before the Police under Section 164 of the Cr.P.C., so also her testimony is consistent.

5. *Prima facie*, perusal of the record indicates that, even if it is accepted that there was sexual assault upon the victim, as rightly argued on behalf of the counsel for the Appellant, there is no evidence to indicate that the said assault being caused by the present Applicant. There is further substance in the contention that examination of the witness Samreen was absolutely essential for the prosecution, as she was

the person who claimed to have informed about presence of the Appellant/Applicant at the spot to victim. Thus, her non-examination before the Trial Court was vital to the prosecution case. There is no explanation for her non-examination.

6. The Appellant/Applicant was on bail during the trial. The Appeal is not likely to be heard in short period of time and since, the Appellant/Applicant has reasonable chance of success at the time of hearing of the Appeal finally, he is entitled for relief. The Appellant/Applicant has not criminal history. Having regard to overall facts of case and evidence on record, this Court finds it appropriate to use its discretion to enlarge the Appellant on bail. The Application therefore stands allowed in following terms.

ORDER

(i) The substantive sentence imposed against the Appellant-Accused by judgment and order dated 27th November 2024 passed in Special Case No.84 of 2019 stands suspended till the decision of the Appeal.

- (ii) The Appellant-Aadil Javed Shaikh be enlarged on bail on furnishing PR Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Bail before the Trial Court.

(R.M. JOSHI, J.)