

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 1333 OF 2025

IN

CRIMINAL APPEAL NO. 496 OF 2025

Raju Chandramani Dhotre

... Applicant

Versus

State of Maharashtra & Anr.

... Respondent

.....

Ms. Mallika Sharma a/w. Ms. Asha Joshi, Advocate for the Appellant.

Mr. Hitendra J. Dedhia, APP for the State.

Ms. Gunjan Mangla a/w. Tithi Jadhadi, Advocate for Respondent No.2.

PSI –Ms. Deepali Pawase, RCF Police Station present.

PSI – Mr. Pradeep Shinde, RCF Police Station present.

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CORAM : R. M. JOSHI, J.

DATED : 27th NOVEMBER, 2025.

P.C. :

1. This application is for enlargement of bail of the appellant and suspension of substantive sentence passed in Special (POCSO) Case No. 1073 of 2020 passed by Additional Sessions Judge in Judgment and Order dated 18.12.2024, whereby he is sentenced to suffer rigorous imprisonment for 20 years with fine.

2. At the outset, learned counsel for the applicant submits that the appellant has already undergone 5½ years of sentence. On merit it is argued that as per the case of the prosecution the alleged sexual assault on the victim is done since year 2016 and report came to be lodged after 4

years in 2020. It is submitted that there are material inconsistencies in the statement of the victim which makes his testimony unreliable. She further drew attention of Court to the medical evidence on record which indicates that no sexual assault as alleged has been caused on the victim. It is argued that here in this case, the prosecution claimed that repeated anal sex has been committed by the accused with the victim and in such circumstances, it is improbable that there would be no medical evidence to support such case.

3. Learned APP and learned counsel for respondent No.2 opposed the application, firstly citing the seriousness of the crime and secondly relying upon the Judgment of Hon'ble Supreme Court in the case of ***Jamnala Vs. State of Rajasthan and Anr.***¹ It is submitted that having regard to the law laid down by the Hon'ble Supreme Court, it would not be open for this Court to pass order of release of the appellant on bail only on the ground that the version of the victim is not supported by the medical evidence.

4. There cannot be any dispute made with regard to the proposition of law that victim's testimony if found free from doubt, can become sole basis of conviction of an accused. When the same is not unimpeachable, Court should look for corroboration. At the same time, the Court is required to take into consideration the overall facts and circumstances of the case. Here in this case, the victim claimed to have been sexually assaulted by the

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accused for a period of about four years and on multiple occasion he was subjected to anal sex. Even if the Court ignores the delay caused in the lodging of the report on the ground that it might be difficult for the boy to disclose this even to his mother immediately, it is not permissible to ignore the material evidence on record. Here in this case as per the case of the prosecution the victim was subjected to multiple episodes of anal sex. In such circumstances, this Court finds substance in the contention of the learned counsel for the appellant that it would be practically impossible that there would be no injury (even old injury) at all on the private part of the victim. This cannot be ignored in the light of the fact that the offence came to be registered after four years of its beginning and hence this Court finds substance in contradiction of learned counsel for appellant about possibility of implication.

5. The appellant has already undergone 5½ years of sentence, the submissions made by the learned counsel for the appellant indicates that the appellant may have a reasonable chance of success in the appeal.

6. Learned counsel for the appellant, on instructions makes statement that the appellant would not enter the local jurisdiction of RCF Police station till decision of the appeal. This undertaking will take care of the apprehension of the victim and prosecution.

7. In view of above, I pass following order:

ORDER

- i. The application stands allowed.
 - ii. The substantive sentence imposed against the appellant by the Judgment and Order dated 18.12.2024 passed in Special (POCSO) Case No. 1073 of 2020 stands suspended.
 - iii. The appellant be enlarged on bail on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.
 - iv. Not to contact victim or family members in any manner whatsoever. Breach of any condition may result to take the appellant in the custody forthwith.
 - v. Observation made above are prima facie in nature and would not affect rights of parties at final hearing of appeal.
8. The Interim Application is disposed of.

(R. M. JOSHI, J.)