

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.1791 OF 2025
IN
CRIMINAL APPEAL NO.507 OF 2025**

Rahul Ramesh Gechand

... Applicant/
Appellant

versus

The State Of Maharashtra And Anr

.... Respondents

Mr. Ashok M. Saraogi along with Mr. Sushil Upadhyay and Ms. Aahana Shrivastava, Advocate for the Applicant/Appellant.

Mr. C.D. Mali, APP for Respondent No.1-State.

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

PSI-Khanvilkar, Dindoshi Police Station, present.

CORAM : R. M. JOSHI, J.

DATE : 25th NOVEMBER 2025

P.C. :

1. This application is for suspension of sentence and enlargement of the applicant/appellant on bail in connection with the impugned judgment and order dated 28th March 2025 passed in Special POCSO Case No.26 of 2017, whereby the appellant is sentenced to suffer rigorous imprisonment for the period of 20 years with fine.

2. At the outset, learned counsel for the appellant submits that the appellant has already undergone actual sentence of 10 years and with remission over 11 years. It is submitted that the appeal is not likely to be heard in short period of time and hence, the appellant be enlarged on bail.

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3. On merit, he drew attention of the Court to the evidence led before the Trial Court, which according to him is full of contradictions and hence, most unreliable. It is his submission that the victim and her mother has changed the version conveniently. It is argued that though there are recoveries shown at the instance of the appellant/accused. Those recoveries cannot be considered as incriminating circumstance against him. Finally it is submitted when the alleged incident is said to have been caused, the victim was pregnant and DNA report is negative qua appellant. He further drew attention of the Court to the evidence of the mother of the victim, who admitted to have filed similar four cases against different accused. She has also admitted that she filed affidavit recording 'no objection' for enlargement of the accused on bail in one of such matters. Reference is also made to her admission to the effect that there were complaints made against her of she blackmailing number of persons by filing false complaints. She went on to admit to have received money from the co-accused in this case also.

4. Learned APP and learned counsel for respondent No.2 opposed the application on the ground that the victim was minor and her evidence is supported by the seizure of car, so also spot panchanama. On the previous date of hearing when submissions were made with regard to the affidavit being filed by the mother of the victim in one of such cases recording 'no objection' for enlargement of the accused on bail therein, learned APP was asked to take instructions in this regard. Learned APP,

on the basis of instructions received from the concerned police officer who is present in the Court, states that the mother of the victim is non-cooperative and is not ready to give any information.

5. There cannot be any dispute made with regard to the proposition of law that credible testimony of the victim can become basis of conviction without seeking further corroboration thereto. However, at the same time, it is not permissible for the Court to ignore the material inconsistencies in the evidence led by the prosecution which creates doubt about the veracity of the statements of the victim.

6. Prima facie perusal of the record indicates that there is substance in the contention of learned counsel for the appellant that there are material inconsistencies in the evidence led by the prosecution, more particularly, of victim and her mother. The appellant, therefore, can be said to have reasonable case of success in the appeal.

7. The appellant has spent more than half sentence imposed against him. Here in this case, the informant i.e. mother of the victim has accepted the fact of filing of three other cases with similar allegations against the accused person. She further admits to have filed affidavit in one of such cases recording 'no objection' for enlargement of the accused on bail. She has further admitted of receiving money from the parents of the co-accused in the instant case. Similarly, there is material on record to indicate that there were complaints against her of falsely implicating the persons making allegations in respect of her minor daughter. If all these

contentions are found to be true, it is a matter of serious concern. The Hon'ble Supreme Court in **Samadhan versus State of Maharashtra and anr. Reported in 2025 LiveLaw (SC) 1137** has held that by making false allegations of rape, the seriousness of crime tends to reduce. To be precise, it not only trivialises the seriousness of the offence but also inflicts upon the accused indelible stigma and grave injustice. The misuse of the criminal justice machinery in this regard is a matter of profound concern and calls for condemnation.

8. The issue with regard to the conduct of the informant shall be taken into consideration at the time of hearing of the appeal.

9. Having regard to the above discussion, this Court finds no hesitation in allowing the application. Hence, the following order ;

ORDER

1. The application is allowed.
2. The substantive sentence imposed against the appellant by impugned judgment and order dated 28th March 2025 passed by Additional Sessions Judge, Borivali Div. Dindoshi, Mumbai in Special POCSO Case No.26 of 2017 stands suspended till the decision of appeal.
3. The appellant be enlarged on bail on furnishing P.R.Bond of Rs.15,000/- with one solvent surety in the like amount to the satisfaction of the Trial Court.

4. The appellant not to directly or indirectly contact the victim or her mother in any manner whatsoever till the decision of the appeal.
5. Any breach of condition, will result in this order being vacated and appellant being required to undergo the sentence.

The interim application stands disposed of in above terms.

10. 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.)