

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.2510 OF 2025
IN
APPEAL NO.711 OF 2025

Kiran Karsandas Aasar ... Applicant / Appellant
V/s.
State Of Maharashtra And Anr ... Respondents

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RANGNATH
WAHULE

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SHARADA
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Mr. Ashok Kumar Dubey i/b Adv. Savj Law Solutions, Advocate for
the Applicant / Appellant.
Mr. S. S. Ghag, APP, for the State-Respondents.
PSI – Suryakant Doke, Borivali Police Station.

CORAM : R.M. JOSHI, J.

DATED : 7th November 2025

P.C.:

1. This Application is for suspension of sentence and enlargement of the Appellant on bail who is sentenced to suffer 10 years imprisonment for the offence punishable under Section 10 POCSO with fine and for other offences by judgment dated 27th June 2025 passed in Special Case No.169 of 2017.
2. Learned counsel for the Appellant submits that the marriage between the Appellant and mother of the victim was performed on 18th November 2016 and within a period of 90 days the offence came to be registered with an intention to rape property. It is his argument that there is material inconsistency in the statement of

the victim as compared to the statement given to the police so also recorded under Section 164 of Cr.P.C. before the magistrate and the substantial evidence sought to be lead before the Trial Court by her mother. It is his submission that it is practically not possible for a victim not to state before the Court the act of insertion of finger by the Appellant in the private part and the said material omission has been accepted by the Trial Court. This according to him supports the case of the Appellant that this could be a case of false implication of the Appellant in the crime and that the evidence of victim is not reliable to base conviction.

3. Learned counsel for the Respondent No.2 and learned APP opposed the application by citing seriousness of the crime. It is their submission that admittedly victim was minor at the relevant time and from the statement of the victim as well as mother it could be seen that the Appellant has committed the sexual assault upon the victim. Since the Appellant is step father of the victim, it is submitted that in view of Section 9 (n) of POCSO, it becomes an aggravated sexual assault and therefore the sentence of 5 years is justified. It is further argued that the conviction can be maintained solely on the basis of the evidence of victim herself. More so herein this case the victims evidence is supported by the evidence of her mother.

4. Ordinarily this Court would not have taken into consideration the submissions sought to be made with regard to the short period of time of marriage and the allegation with regard to the disputes between husband and wife which lead to the litigation to the Family Court, however, prima facie perusal of the

substantive evidence led before the Trial Court indicates that there is material inconsistency with regard to the act of inserting finger by the Appellant into the private part of the victim and such omission is so material that it cannot be ignored. The victim is not too small to skip mentioning said act and disclose the same to the Trial Court during the recording of substantial evidence. This Court therefore prima facie find the contention of the counsel for the Appellant that it could be a case of implication of the Appellant as not substanceless. Appellant has no criminal history. He was on bail during the course of the trial and there is no grievance about he abusing the liberty.

5. Since there is a reasonable case available for argument for the Appellant during the course of the final hearing of the Appeal and as Appeal could not be heard expeditiously, the application deserved to be allowed.

6. Accordingly it stands allowed in following terms.

ORDER

(i) The substantive sentence imposed against the Appellant by Judgment and Order dated 27th June 2025 passed in Special Case No.169 of 2017 stands suspended till decision of the Appeal. The Appellant be enlarged on bail by furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

(ii) Appellant shall not contact the victim in any manner whatsoever.

(iii) Any breach of such condition will result into the vacation of

the present order and that the Appellant shall undergo the remaining sentence.

(iv) Bail before Trial Court.

(R.M. JOSHI, J.)