

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3125 OF 2025

IN

CRIMINAL APPEAL NO.980 OF 2025

Vishal Raghuveer Dhulgach

.... Applicant

versus

The State of Maharashtra and Anr.

.... Respondents

NILAM
SANTOSH
KAMBLE

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Mr.Pramod Kathane along with Mr.Amol Ghurde and Ms.Krishna Dhere, Advocate for the Applicant/Appellant.

Mr. H. J. Dedhia, APP for Respondent No.1-State.

Ms.Farhana Shah along with Ms.Amna Khan, Advocate appointed for Respondent No.2.

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CORAM : R. M. JOSHI, J.

DATE : 12th NOVEMBER, 2025.

P.C.:

. This Application is for suspension of substantive sentence and enlargement on bail in connection with the judgment and order dated 7th January 2025 passed in Special POSCO Case No.483 of 2022 whereby the Appellant convict has been sentenced to suffer 10 years Rigorous Imprisonment with fine for the offences under Section 377 of Indian Penal Code, 1860 ('IPC' for short), and Section 3 and 4 of the

Protection Of Children from Sexual Offences Act, 2012 ('POCSO Act' for short).

2. The learned counsel for the Appellant/Applicant submits that the Appeal is not likely to be heard in short period of time and hence, if the Appellant is not enlarged on bail, the Appeal shall become infructuous. It is his submission on merit that the possibility of false implication is not ruled out in view of the fact that, there are disputes between the parties who are neighbors. It is argued that, admittedly, the mother of the Accused was present in the drawing room, but the victim boy has not complained immediately to her about the alleged incident of anal sex with him. It is his submission that the Appellant has no criminal history and he is not likely flee from justice suspension of sentence and bail be sought.

3. The learned counsel for Respondent No.2-Victim and APP opposed the Application by drawing attention of the Court to the evidence on record which according to indicate that the testimony of the victim boy is reliable to maintain conviction. It is further pointed out that, there is corroboration to his testimony with medical evidence on record. It is argued that, since the unnatural

offences has been committed against the boy of 11 years, it is not fit case for enlargement of the Appellant on bail.

4. In order to succeeded in seeking suspension of substantive sentence and enlargement on bail, the Appellant convict will have to *prima facie* show that he would have reasonably good case of success, at the time of the final hearing of the Appeal. Merely because the Appellant is in jail, since, 2022, he does not automatically becomes entitle for bail.

5. At this stage, the Court is required to see whether the judgment of conviction is supported by material on record. *Prima facie* perusal of the evidence indicates that, the testimony of the victim consistently states about the act of anal sex being committed by the Appellant with him. There is corroboration to his oral evidence through the medical evidence on record. Merely because the mother of the Accused was present in the drawing room, it cannot be assumed that non-disclosure of the incident to her leads to create doubt about the said. This Court finds substance in the contention of counsel for Respondent No.2 that it would not have been possible for victim to tell lady that her son committed anal sex

with him.

6. Having regard to the *prima facie* material on record this Court finds no case has been made out by the Appeal for suspension of sentence and enlargement on bail. The Application stands dismissed.

7. The observations made above shall not come in way of either side at the time of final hearing of Appeal.

8. The Appeal is expedited.

(R. M. JOSHI, J.)