

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. NO. 3136 OF 2025

IN

CRIMINAL APPEAL NO. 711 OF 2024

Ramdas Bhaskar Bhoje

... Applicant/
Appellant

Versus

State of Maharashtra & Anr.

... Respondents

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- Mr. Shravan Giri a/w. Mr. Sachin Gosai, Advocate for the Applicant/Appellant.
 - Mr. M.S.Sonavane, Advocate for the Respondent-State.
 - Ms. Aishwaya Sharma (Appointed Advocate) for Respondent No.2.

CORAM : R. M. JOSHI, J.

DATED : 13th NOVEMBER, 2025.

P.C. :

1. This application is for suspension of sentence and enlargement of the appellant on bail in connection with the Judgment and Order dated 30.04.2024 passed in Special (POCSO) Case No. 99 of 2022 whereby the appellant is sentenced to suffer rigorous imprisonment of 20 years with fine.

2. Learned counsel for the appellant submits that here in this case neither victim nor her parents have supported the case of the prosecution as they turned hostile, there would be no justification to sustain the

conviction merely on the basis of evidence of DNA report. It is his submission that the conviction on DNA report without any corroborative evidence would not be sustainable in view of the following judgments :

*(i) Suresh s/o. Devidas Malche Vs. The State of Maharashtra*¹

*(ii) Pattu Rajan Vs. State of Tamil Nadu*²

*(iii) Ranjitsing Brahmajeetsing Sharma Vs. State of Maharashtra and Anr.*³

*(iv) State of Karnataka Vs. Nagesh s/o. Shivappa Mossannavar*⁴

*(v) Premjibhai Bachubhai Khasiya Vs. State of Gujarat and Anr.*⁵

3. Learned counsel for the respondent No.2 and learned APP opposed the application by contending that even though the witnesses are declared hostile, their entire evidence cannot not be discarded. It is argued that the mother of the victim and father have admitted the statements made by them before the Magistrate under Section 164 of Cr.P.C. It is their submission that not only those recording of statements has been accepted but the statements made before the Magistrate are also accepted to be corrected. It is their submission that the defence has admitted the victim to be minor and in such circumstances the DNA report which conclusively connects the present appellant to the crime is sufficient to prima facie

1 2023 ALL MR (CR.) 1334

2 AIR 2019 SCC 1674

3 2005 AIR SCW 2215

4 2025 KHC-D-8847-DB

5 2009 CRI L.J. 2888

accept the conviction recorded against him to be proper. It is argued that merely for the reason that the compromise took place between the parties, the appellant would not be entitled for bail.

4. At the outset it needs to be recorded that at this stage, the Court is not expected to find faults or lacunas in the Judgment impugned and the exercise of minute consideration of evidence could be undertaken at the time of final hearing of the Appeal. Here in this case, there is no dispute about the fact that the victim was minor and she was impregnated. There is evidence on record to show that the DNA report proves accused to be the person who impregnated the victim. This is not the case of love affair. The case of the appellant is of total denial. In such circumstances, at this stage this Court is required to see whether there is any evidence to support the DNA report.

5. As rightly pointed out by the learned APP and learned counsel for respondent No.2 that the entire evidence of the hostile witnesses cannot be discarded totally. It is pertinent to note that the hostile witnesses admitted recording of statement before the Magistrate under Section 164. Not only the recording of the statement has accepted but also the statement precisely made before the Magistrate is accepted to be told to the Magistrate. Thus this is not the case wherein it is absolutely no evidence on record to corroborate the evidence of DNA report. In respectful view

of this Court judgments cited supra on behalf of the applicant though could be considered during final hearing of appeal, would not help applicant is succeeding in application for suspension of sentence. This Court, therefore, finds no reason or justification to accept the contention of the learned counsel for the appellant at this stage. Having regard to the afore-stated facts, this is not the case wherein the appellant is entitled for enlargement on bail by suspending substantive sentence.

6. Hence application stands rejected.

7. The above observations are prima facie in nature and would not come in way of either side during final hearing of appeal.

8. Appeal stands expedited.

(R. M. JOSHI, J.)

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