

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NOS.3826 AND 3827 OF 2025
IN
CRIMINAL APPEAL NO. 1027 OF 2025**

Prashant Shivram Kalambe

... Applicant/s
Appellant/s

versus

The State of Maharashtra and anr.

.... Respondent/s

Mr. Neeraj Dinanath Yadav along with Ms. Deepa Harshad Punjani,
Advocates for the Applicant/Appellant.

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

Mr. Kartik Rajasekhar, Advocate for Respondent No.2.

Mr. Deepak L. Gaikwad, PSI, Dadar Police Station, Mumbai.

**CORAM : R. M. JOSHI, J.
DATE : 14th NOVEMBER, 2025.**

P.C. :

1. These applications are for suspension of substantive sentence and enlargement of the applicant/appellant on bail in connection with the impugned judgment and order dated 19th September 2025 passed in POCSO Special Case No.131 of 2019, whereby the appellant is sentenced to suffer imprisonment for five years with fine.

2. Learned counsel for the applicant/appellant submits that the testimony of the victim is unreliable. He drew attention of the Court to the evidence of the victim, which according to him indicates that initially, she suppressed the fact of the presence of the carpenters in the house at the time of the occurrence of the incident, however, in cross-examination, she has admitted the same. Reference is also made to the cross-examination

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of the mother of the victim who admits having no good relations with the family of the accused. In this backdrop, it is his argument that since the evidence of the victim is inconsistent and not reliable, this is a fit case for enlargement of the appellant on bail. He claims that the appellant has no criminal history and is not likely to flee from justice.

3. Learned counsel for respondent No.2 as well as learned APP strongly opposed the application. It is their contention that the Court is required to see the testimony of the victim insofar as the actual incident of molestation and minor discrepancies would not be sufficient to grant any relief to the appellant. Learned APP drew attention of the Court to the evidence of the father of the appellant i.e. DW-1 to argue that he does not claim dispute between the families.

4. There cannot be any dispute with regard to the proposition of law that the victim's sole testimony would be sufficient to convict the accused, provided it is free from doubt. Prima facie perusal of the evidence of the victim indicates that there are material inconsistencies in her testimony. This Court also finds substance in the contention of learned counsel for the appellant that the victim has attempted to suppress material facts which were revealed in the cross-examination. Most importantly, independent witnesses who were present in the house at the time of the incident were not examined before the Trial Court without any justified reason. Even if it is accepted for the sake of argument that those witnesses could not have stated about the actual act

of molestation, however, their evidence would have been absolutely necessary to hold that the appellant entered the house and, thereafter, the incident of molestation has taken place. Having regard to this fact and also in view of the fact that the appellant has no criminal history, it is a fit case for suspension of sentence and enlargement of the appellant on bail, hence, the following order :

O R D E R

1. The applications are allowed.
 2. Substantive sentence imposed against the appellant in 19th September 2025 passed in POCSO Special Case No.131 of 2019 passed by the Additional Sessions Judge, Greater Bombay, 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 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 applications stand disposed of in above terms.

5. 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.)