

Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1604 OF 2024
IN
CRIMINAL APPEAL NO. 404 OF 2024

Sukhdeo Siddharam Bansode

...Applicant/
Appellant

Versus

The State of Maharashtra & Anr.

...Respondents

Mr. Ravishankar S. Thombare, for the Applicant/Appellant.
Mr. H.J.Dedhia, APP for the Respondent-State.
Ms. Aishwarya Sharma, for the Respondent No.2.

CORAM: R. M. JOSHI, J.
DATED: 20th JANUARY, 2026.

PC:-

1. This is an application for suspension of sentence and enlargement of the Applicant/Convict on bail in connection with the Judgment and Order dated 2nd March 2024 passed in Special (POCSO) Case No.150 of 2020 whereby the Applicant came to be convicted for the offences punishable under Sections 376(3) and Section 3 read with 4(2) of the Protection of Children From Sexual Offences Act, 2012 ('POCSO Act') and sentenced to suffer rigorous imprisonment for 20 years with fine of Rs.50,000/- with default sentence.

2. Learned counsel for the Applicant submits that the evidence led by the Prosecution before the Trial Court is not sufficient to prove the guilt of the Accused. He drew attention of the Court to the fact that Victim in her evidence admitted that after 19th June 2019, the Accused left the area and thereafter she did not see him till recording of the evidence. It is his submission that similar is the statement of the mother of the Victim in her testimony before the Court. In this backdrop, it is his submission that refusal of the Victim to undergo medical examination for a period of 3 months after lodging of the report becomes relevant. It is his submission that the Applicant has fair chance of success in the Appeal and that there is no criminal history behind him.

3. Learned APP and learned counsel for the Respondent No.2/Victim opposed Application. It is their contention that evidence of the Victim before the Trial Court coupled with her statement under Section 164 of the Code of Criminal Procedure (Cr.P.C.) and history given to the Medical Officer is sufficient to convict the Accused.

4. In order to seek the suspension of sentence and enlargement on bail, the Applicant/Convict will have to show fair chance of success in the Appeal. *Prima facie*, perusal of the evidence on record indicates that an incident occurred on 19th June 2019 when the Informant, i.e., the mother of the Victim found one chit in the school bag of Victim. The said chit was said to have been written by the Applicant. It is thereafter an incident is said to have occurred on 22nd June 2019 wherein the Applicant is said to have committed sexual intercourse with the Victim.

5. The evidence on record, more particularly, admission of the Victim that after the incident of finding of the chit, i.e., 19th June 2019, she had never seen the Applicant till recording of her evidence before the Trial Court. Similar is the statement of Informant, i.e., the mother of the Victim, who also states about the Applicant being not seen after the incident of 19th June. In this backdrop, refusal on part of the Victim to undergo medical examination for a period of 3 months, assumes importance. Merely because the Victim gives history to the Medical Officer and makes statement before the Judicial Magistrate First Class under Section 164 of the Cr.P.C., the material admissions of the Victim as well as the Informant, cannot be ignored. This Court therefore, finds that the Applicant would have reasonable chance of success in the Appeal. The Applicant has no criminal history. He is not likely to flee from justice.

6. In view of the above, the following order is passed:

ORDER

(i) Interim Application stands allowed.

(ii) The substantive sentence imposed against the Applicant by the Judgment and Order dated 2nd March 2024 passed in Special (POCSO) Case No.150 of 2020 stands suspended till the decision of the Appeal.

(iii) The Applicant be enlarged on bail on furnishing P.R. bond in a sum of Rs.15,000/- (Fifteen thousand rupees) with one surety in the like amount.

(iv) The Applicant not to contact Victim or her family members in any manner whatsoever.

7. In view of the above, Interim Application No.1604 of 2024 stands disposed of.

8. Aforesaid observations are *prima facie* in nature and parties won't be bound by the same at the time of hearing of the Appeal.

(R. M. JOSHI, J.)

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