

Priya Soparkar

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.3296 OF 2024
IN
CRIMINAL APPEAL NO.883 OF 2024

Aayyaswamy Vaiyyaburi Pillai

...Appellant/
Applicant

Versus

The State of Maharashtra and anr.

...Respondents

Mr. Gaurav Borse, for the Appellant/Applicant.

Ms. Ketki Gokhale, Appointed Advocate through legal-aid, for the
Respondent No.2.

Mr. Hitendra Dedhia, APP, for the State.

CORAM: R. M. JOSHI, J.

DATED: 13th JANUARY, 2026.

PC:-

1. This application is for enlargement of bail with suspension of sentence in connection with judgment and order dated 22nd May, 2024 passed by the Special Judge in Special Case No.61 of 2020 whereby the Appellant came to be convicted for the offences punishable under Sections 376, 354 of IPC and Sections 4, 6 and 8 under the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), whereby he was sentenced to suffer maximum sentence of ten years.

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2. Learned counsel for the Appellant submits that the Appellant has already undergone more than six years of sentence out of ten years imprisonment imposed against him. On merits, it is his submission that except for the evidence of Informant i.e. the mother of the victim girl, there is no evidence to show the involvement of the Appellant in this crime. It is further submitted that admittedly the relationship between the Informant and the accused who is her husband is not cordial and they separated in June, 2019. It is his submission that the report came to be lodged after nine months of the occurrence of the alleged incident. It is his submission that no mother would remain quiet for this long period to lodge a report against the sexual abuse of her daughter. It is argued that on account of the dispute between husband and wife, false complaint came to be lodged against the Appellant. It is his submission that the appeal is not likely to be heard within a short period of time and hence, the Appellant be enlarged on bail. He claims that the Appellant has no criminal antecedents.

3. Learned APP as well as learned counsel for the Respondent No.2 opposed the application by contending that the nature of offence is serious. It is their contention that since unfortunately the victim is mentally retarded child, she was not able to speak and consequently could not lead evidence before the Trial Court. It is submitted that the evidence of the Informant i.e. the mother of the victim gets support from the medical evidence. It is therefore, submitted that having regard to the seriousness of the crime, application be rejected.

4. The Appellant has already undergone sentence over a period of six years out of ten years of imprisonment imposed against him by the impugned judgment and order by the Trial Court. Apart from the said fact, the Appellant has to show that he has reasonable chance of success in this Appeal. In this regard, it is pertinent to note that the alleged offence has been committed on 3rd March, 2019, whereas the report of the same came to be lodged on 3rd December, 2019. Though the delay in lodging of the report *per-se* would not be sufficient to discard the case of the prosecution, but in this case, admittedly, the relationship between husband and wife i.e. Informant and accused is strained. This Court finds substance to the contention of the learned counsel for the Appellant that no mother would wait for a period of six months even after separating from her husband to lodge report against him for sexual abuse on her child. The child has not deposed herein and history given to Medical Officer is also recorded at the instance of mother of victim.

5. Having regard to these facts, the possibility of false implication of the Appellant owing to the dispute between husband and wife is not completely ruled out. Since the Appellant has undergone more than half of the sentence as the appeal is likely to be heard within a short period of time, this is a fit case to grant bail. He has no criminal history and 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 Appellant by the judgment and order dated 22nd May, 2024 passed by the Special Judge in Special Case No.61 of 2020 stands suspended till the decision of the Appeal.

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

(iii) Appellant not to contact victim in any manner whatsoever.

7. In view of the above, Interim Application No.3296 of 2024 stands disposed of.

(R. M. JOSHI, J.)

The order is corrected pursuant to the Speaking to the Minutes of Order dated 29th January, 2026.