

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.4064 OF 2024
IN
CRIMINAL APPEAL NO.931 OF 2025**

Shashikant Rambhau Sonavane

**...Applicant /
Appellant**

Versus

Altaf Mohammed Shaikh and Anr.

...Respondents

Mr. Mohansinh U. Rajput, for the Applicant.

Mr. Parth Talekar, for the Respondent No.2.

Ms. Shilpa K. Gajre-Dhumal, APP for the Respondent - State.

**CORAM R. M. JOSHI, J.
DATED: 06TH MARCH 2026**

PC:-

1. This Application is for suspension of sentence and enlargement of the Applicant on bail in connection with Judgment and Order dated 26th June, 2024, passed by the Additional Sessions Judge & Special Judge under POCSO Act, Kalyan in Atrocity Special Case No.127 of 2017, whereby the Applicant came to be convicted for the offence punishable under Section 376(A)(B) and 363 of the Indian Penal Code, 1860 (IPC) and sentenced to suffer rigorous imprisonment for

twenty years and to pay fine of Rs.20,000/- (Twenty Thousand only), in default of payment of fine amount, simple imprisonment for one year.

2. Learned counsel for the Appellant submits that the evidence of the victim is not free from doubt in order to maintain the conviction against the Appellant. In this regard, he drew attention of the Court to the testimony of the victim which, according to him, indicates that after the occurrence of the incident she was playing with her friends. He, therefore, submits that it is not possible that after she was sexually ravished by the Appellant, she would continue to play with the friends. He also drew attention of the Court to the cross-examination conducted of the informant, which according to him, reveals an unexplained delay of two days in lodging of the report. He further argued that the evidence of the Medical Officer with regard to the sexual assault on the victim is not conclusive in nature, as the Medical Officer has not given any final opinion in this regard. It is submitted that no FSL report is filed on record before the Trial Court in order to support the

tentative opinion expressed by the Medical Officer. He finally argued that since the Appellant is in jail over a period of eight years and six months, he is entitled for bail.

3. Learned counsel for the Appellant submits that the admission given by the Investigating Officer in his cross-examination indicates that there is non-compliance of mandatory provisions of the POCSO Act.

4. Insofar as the compliance under the POCSO Act are concerned, they are meant to protect the victim. On the face of it the Accused cannot take advantage of it.

5. Learned APP and learned counsel for the Respondent No.2 opposed grant of bail. It is their contention that the victim was 9 years of age at the relevant time. Her statement is consistent and duly supported by the medical evidence on record. In this regard, reference is made to the testimony of the Medical Officer, which indicates that the injuries caused to the victim are possible only in the case of she being sexually assaulted.

6. It is the settled position of law that in order to seek suspension of sentence and enlargement on bail, the Appellant / convict needs to make out a *prima facie* case indicating a fair chance of success in the appeal. As far as the present concerned, though the delay in lodging of the FIR, the evidence laid before the Trial Court is self explanatory. This is not a case wherein the Appellant is said to have been falsely implicated in the crime.

7. Insofar as the evidence of the victim is concerned, it sufficiently states with regard to the acts done by the Appellant with her. Her version so is not required to be supported by any other material; however, herein in this case there is a medical evidence to support the case of the prosecution that the victim was sexually assaulted. Considering the presumption under Section 29 of the Act, the Appellant has failed to rebut the same. In such circumstance, this Court finds it difficult to accept that the Appellant has any fair chance of success in appeal.

8. In view the above, application stands dismissed.

9. It is clarified that the above observations are *prima facie* in nature and shall not bind the parties at the time of hearing of the appeal. The Appeal stands expedited.

(R. M. JOSHI, J)