

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 560 OF 2025
IN
CRIMINAL APPEAL NO. 128 OF 2025

Swapnil Baban Sawant ...Applicant

IN THE MATTER BETWEEN

Swapnil Baban Sawant ...Appellant

Versus

The State of Maharashtra & Anr ...Respondents

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SANJAY
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Mr Chaitanya Mulwakar, with Nilesh Waghmode, for the Applicant.
Mr SS Ghag, APP, for Respondent No.1-State.
Ms Deepali Bagla, for Respondent No. 2.

CORAM: R. M. JOSHI, J.

DATED: 9TH FEBRUARY 2026

PC:-

1. The application is for suspension of sentence and enlargement of the Applicant on bail in connection with Judgment and order dated 19th December 2024 passed in POCSO Special Case No.4 of 2017, whereby the Applicant came to be convicted for the offence punishable under Section 376 of IPC and Section 6 of the POCSO Act and sentence to suffer 10 years imprisonment.

2. Learned counsel for the Appellant submits that the record indicates that this is a case of love relationship between the

Appellant and the victim. It is his further submission that the informant was of the age of understanding the immune physical relationship. It is his submission that initially offence came to be registered under Section 366 of the IPC, however, later point of time the offence under Section 376 IPC and Section 6 of the POCSO Act came to be added. He drew attention of the Court to the evidence on record, more particularly, evidence of the victim, which shows that consciously both of them alone and stayed at different places for a considerable period of time. It is his submission that having regard to the nature of evidence on record there is a reasonable chance of success of the Appellant in the Appeal.

3. Learned APP and counsel for Respondent No. 2 opposed the application essentially contending that age of the victim is proved before the Trial Court and since she was a minor, application be rejected.

4. Prima facie perusal of the record indicates that this is a case of love relationship between informant and Appellant. This Court finds substance in the contention of counsel for the Appellant that there are inconsistencies in the evidence and hence, the Appellant would have a reasonable chance of success in Appeal.

5. Learned APP and counsel for Respondent No. 2 opposed the application also on the ground that there is criminal history against the Appellant as he is charged with the offence punishable under Section 302 of the IPC. Learned counsel for the Appellant

by placing reliance on order dated 10th February 2025 passed in Bail Application No. 2267 of 2024 contends that in the said crime his is granted bail by this Court.

6. If the Appellant granted bail by this Court, irrespective of the fact that he is a convict, it does not become an impediment to enlarge him on bail in the present crime. The Appellant has a fair chance of success and the Appeal is likely to be heard in short period of time.

7. Hence, the following order is passed:

ORDER

- (a) The Application stands allowed.
- (b) The Appellant be enlarged on bail on furnishing PR Bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousands Only), with one surety in the like amount.
- (c) The substantive sentence imposing the Applicant in connection with POSCO Special Case No. 4 of 2017 stands suspended till decision of the Appeal.
- (d) The Applicant is directed not to contact victim in any manner whatsoever.
- (e) The Applicant be released forthwith, if not required in any other crime.

(f) Any breach of the condition shall forthwith result in cancellation of the bail.

8. In view of the above Interim Application No. 560 of 2025 stands dispose of.

(R. M. JOSHI, J.)