

Prasad

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 214 OF 2025
WITH
INTERIM APPLICATION NO. 864 OF 2025

Usman Ismail Sidiqui ...Appellant
Versus
State Of Maharashtra and Anr. ...Respondents

Ms. Nazneen Khatri a/w Sagar Samel, for the Appellant.
Ms. Rachita Padawl, for the Respondent No.2.
Mr. H.J. Dedhia, APP for the Respondent - State.

CORAM: R. M. JOSHI, J.

DATED: 21st JANUARY, 2026.

PC:-

1. This Application is for suspension of sentence and enlargement of the Appellant on bail in connection with judgment and order dated 7th December, 2024 passed in Special Case No.226 of 2019, whereby the Appellant came to be convicted for the offence punishable under Sections 354(a) read with Section 34 of the Indian Penal Code (IPC) and Sections 8, 10, and 12 of the Prevention of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to suffer rigorous imprisonment five years imprisonment with fine.

2. Learned counsel for the Appellant submits that in the instant case the victim made similar allegations against Accused Nos.1 and 2. The Trial Court has not found the accusations made against the

Accused No.2 to be convincing and hence acquitted the accused. It is her submission that having regard to the similarity of the allegations made by the victim, it will be difficult to maintain conviction against the Appellant. It is further argued by relying upon the evidence on record that the victim has accepted in her cross-examination that her liberties were curtailed which were available for her in her grandparents' place. It is her submission that owing to the said grudge the possibility of Appellant being falsely implicated in this case cannot be ruled out. She claims that Appellant has no criminal history against him.

3. Learned counsel for the Respondent No.2 and learned APP opposed the appeal by contending that the victim is minor and she was subjected to sexual harassment of by the accused persons. It is their submission that merely because the co-accused has been enlarged on bail, there would be no reason not to accept the evidence of the victim against present Appellant. It is also argued that there is no reason or justification for the victim to make false allegation against the present Appellant.

4. There is no dispute about the fact that the victim made almost similar allegations against the Accused No.1 as well as Accused No.2. The Trial Court did not find her testimony to be sufficient to prove the acts alleged be committed by the Accused No.2. Here in this case, by way of cross-examination the Appellant has brought on record that the victim had grievance against the Appellant as her liberty was curtailed which were available for her at her grandparents' place. Learned counsel for the Appellant has placed reliance on the judgment of the Hon'ble Supreme Court in

the case of *Javed Shakat Ali Qureshi v. State of Gujrat*¹. Though said judgment is not passed in identical facts involved in the present case, however, since Trial Court refused to accept victim's similar allegations against co-accused, and passed order of acquittal in favour of the Accused No.2. Said acquittal coupled with cross-examination of victim, showing she being not happy with restrictions in the house of Accused, there would be reasonable chance of success in appeal of Appellant. Appellant has no criminal history against him and he is not likely to flee from justice. In view of above, following order.

ORDER

- (i) The substantive sentence imposed against the Appellant by the impugned Judgment and Order dated 07.12.2024 passed in Special POCSO Case No. 226 of 2019 stands suspended till hearing of Appeal.
- (ii) The Appellant be enlarged on bail on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.
- (iii) Appellant not to contact the victim in any manner whatsoever.
- (iv) Any Breach conditions would result in forthwith cancellation of bail.

(R. M. JOSHI, J.)

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