

Shephali

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3579 OF 2025
IN
CRIMINAL APPEAL NO. 973 OF 2025
WITH
CRIMINAL APPEAL NO. 973 OF 2025

Dnyaneshwar Trambak Patil alias Patil Baba ...Applicant

IN THE MATTER BETWEEN

Dnyaneshwar Trambak Patil alias Patil Baba ...Appellant

Versus

State of Maharashtra & Anr ...Respondents

Mr Aniket Vagal, with Juhi Kadu & Savvy Kolhekar, for the
Applicant/Appellant.

Mr HJ Dedhia, APP, for the Respondents.

Mr Amandeep Singh S, appointed Advocate for Respondent No. 2.

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CORAM: R. M. JOSHI, J.

DATED: 28TH JANUARY 2026

PC:-

1. This application is for suspension of sentence and enlargement of the Appellant on bail in connect with Judgment and Order dated 10th September 2025 passed in Special Case (Atrocity) No. 204 of 2022, whereby the Appellant came to be convicted for the offence punishable under Section 9 of the POCSO Act and was sentenced to suffer seven years imprisonment.

2. Learned counsel for the Appellant has drawn attention of the Court to the testimony of the informant, i.e., the mother of the victim, who admits in candid terms that her husband owned a sum of Rs. 5 lakhs to the accused and when he demanded the said money, quarrel occurred between them. She further admits that after the said quarrel she took advise from a lawyer and, therefore, the complaint came to be filed. It is his submission that these admissions of the informant assume importance in view of the evidence of the victim herself. Learned counsel for the Appellant took serious exception to the manner in which the evidence of the victim came to be recorded before the Trial Court. It is his submission that this examination-in-chief is nothing but all suggestions made to the victim in order to elicit favourable answers. It is his submission that in any case, the victim who is aged about 10 years and as admitted by her, she can understand bad touch and that she never felt the touch of the accused as bad touch. It is his contention that the possibility of false implication is not ruled out and since the evidence of the victim is not supported by the medical evidence, this is a fit case for enlargement of the Appellant on bail.

3. Learned APP and counsel for Respondent No. 2 opposed the Application. It is their contention that the prosecution has proved that the victim was minor at the relevant time and the entire evidence recorded needs to be appreciated in view of the fact that the age of the victim was 10 years at the relevant time.

4. In order to seek the suspension of sentence, the Appellant has to make out the *prima facie* case of success in the Appeal. *Prima facie* perusal of the evidence of the informant indicates that there were quarrels between the informant and accused over he demanding repayment of Rs. 5 lakhs, which were taken by the husband of the informant. She admits that in the month of July 2022, the said repayment was sought and, thereafter, quarrel occurred between them. She further accepts that after the said quarrel, she took advise of the Advocate and lodged offence against the accused.

5. In this backdrop, perusal of the victim's evidence indicates that the victim has given altogether different version with regard to the occurrence of the incident as compared to her mother, so also, she admits that she understands bad touch and never felt bad touch of the accused. This is relevant because there is acquaintance of the accused and victim's family and it is not case that offence is committed by unknown person.

6. In the light of these facts, the medical evidence does not support the case of the prosecution about the occurrence of the incident. Medical Officer has candidly accepted that he is unable to given any opinion with regard to the same in absence of further FSL examination. There is no such FSL report on record, which would support the case of prosecution.

7. *Prima facie*, therefore this Court has no hesitation to hold that there is substance in the contention of counsel for the

Appellant that this could be a case of false implication of the Appellant in this crime. He has no criminal history and hence not likely flee from justice.

8. In view of the above, the following order is passed.

ORDER

- (a) Interim Application stands allowed.
- (b) The substantive sentence imposed against the Appellant by the Judgment and Order dated 10th September 2025 passed by the Trial Court in Special Case (Atrocity) No. 204 of 2022 stands suspended till the decision of the Appeal.
- (c) The Appellant be enlarged on bail on furnishing PR Bond in the sum of Rs. 15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.
- (d) Appellant not to contact victim or her family members in any manner whatsoever.

9. In view of the above, Interim Application No. 3579 of 2025 stands disposed of.

(R. M. JOSHI, J.)