IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL (STAMP) NO. 18490 OF 2025

Arjun Kailas Malake …Appellant

Versus

The State of Maharashtra And Anr. …Respondents

WITH

INTERIM APPLICATION NO. 3812 OF 2025

(For Condonation of Delay)

WITH

INTERIM APPLICATION NO. 3814 OF 2025

(For Bail/Suspension of Sentence)

IN

CRIMINAL APPEAL (STAMP) NO. 18490 OF 2025

Arjun Kailas Malake …Applicant

Versus

The State of Maharashtra And Anr. …Respondents

Mr. Saloni Sarguru a/w Mr. Akshay Naidu i/b Mr. Sachin Salunkhe, for the Appellant/Applicant.

Mr. Ashok S.Gawai, APP, for the Respondent No.1-State.

CORAM: R. M. JOSHI, J.

DATED: 13th MARCH, 2026

PC:-

INTERIM APPLICATION NO. 3814 OF 2025

1. Applicant seeks suspension of sentence and enlargement on bail in connection with Judgment and Order dated 27.06.2023, passed in Special POCSO Case No. 197 of 2016, whereby the Applicant came to be convicted for a period of 20 years

imprisonment with fine of Rs.10,000/- with default sentence for the offences punishable under Sections 376, 354-A, 354-B, 504, 506 of the Indian Penal Code and Sections 5(m) & 5(n) punishable under Section 6 and Section 9(m) (n)/10 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act")

2. Learned Counsel for the Applicant has drawn attention of the Court to the positive findings recorded by the Trial Court to the effect that this is a fit case for imposition of minimum punishment prescribed in Section 6 of POCSO Act. She further submits that the incident in question has occurred on 08.04.2016 and at the relevant time the minimum punishment for the said offence was 10 years imprisonment. It is her further submission that Learned Trial Court ignored the position of law that the amendment to the said provision was made effective from August-2019 and as such the same has no application to the present case. In this context, she argues that the Trial Court therefore committed serious error in sentencing the Applicant the imprisonment for 20 years. It is her contention that the Applicant was arrested on 08.04.2016 and he has already completed minimum sentence imposed against him

3. Ld. APP and Ld. Counsel for the Respondent No.2 opposed the Application however, they were unable to justify the order of the Trial Court.

4. Admittedly, no appeal for enhancement of sentence has been filed by the State or victim. The Trial Court recorded positive

finding as this is a fit case for sentencing the Applicant for imprisonment for the period minimum prescribed under Section 6 of the POCSO Act. The learned Trial court in ignorance of the fact that the offence has taken place prior to the amendment in the said provision with effect from 16.08.2019, and wrongly imposed sentence of 20 years.

5. Having regard to aforestated facts, this is a fit case for suspension of the sentence of the Applicant and his enlargement on bail. Hence, following order.

O R D E R

i) The Interim Application No. 3814 of 2025 stands allowed.

ii) The substantive sentence imposed against the Applicant by the Judgment and order dated 27.06.2023 passed in Spl. POCSO Case No. 197 of 2016, stands suspended till the decision of the Appeal.

iii) The Applicant be enlarged on bail, on furnishing P. R. Bond of Rs.15,000/- with one surety, in the like amount to the satisfaction of the Court.

iv) For a period of a month he be enlarged on cash bail.

v) The appellant not to contact victim or the family members of the victim in any manner whatsoever.

vi) Any breach of the above condition shall result forthwith in cancellation of bail.

6. In view of the above, Interim Application No. 3814 of 2025 stands disposed of.

7. It is clarified that the above observations are made on *prima facie* consideration of the material on record and the same shall not bind the parties during the final hearing of the Appeal.

INTERIM APPLICATION NO. 3812 OF 2025

8. Heard learned Counsel for both sides.

9. This Application is for condonation of delay in filing of the Appeal against the Judgment and order dated 27.06.2023 passed in Spl. POCSO Case No. 197 of 2016. Applicant is in jail. His liberty is restricted. This itself becomes a ground for condonation of delay. Delay stands condoned.

10. Appeal be registered.

11. Application No. 3812 of 2025 stands disposed of.

CRIMINAL APPEAL (STAMP) NO. 18490 OF 2025

12. Admit.

13. Call Record and Proceeding.

14. Issue notice to the Respondents.

15. APP waives service of notice on behalf of the Respondent-State and Ms. Lucy Massey, is appointed to represent the Respondent No.2 in Appeal.

(R. M. JOSHI, J.)

VDMokal/-