

Rekha Patil

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 4118 OF 2025
IN
CRIMINAL APPEAL NO. 1082 OF 2025

Mohammad Jahangir Mohammad Tahir Ansari ...Applicant
Versus
The State of Maharashtra and Anr. ...Respondents

Mr. Sachchiddanand Mishra, for the Applicant.
Mr. A. S. Gawai, APP, for the Respondent No.1-State.
Mr. Bhusan Raut, Appointed Advocate, for the Respondent No.2.

CORAM: R. M. JOSHI, J.

DATED: 2nd FEBRUARY, 2026

PC:-

1. This application is for suspension of sentence and enlargement of the applicant/appellant on bail in connection with Judgment and Order dated 30th October, 2025 passed in POCSO Spl. Case No. 412 of 2019, whereby the appellant is convicted for the offence punishable under Section 376 (2)(n) of the Indian Penal Code (for short "IPC) and under Sections 3, 4, 5, 6 and 7 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act") and sentenced to suffer ten years of imprisonment.

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2. Learned Counsel for the applicant/appellant submits that out of ten years of sentence, the applicant/appellant has already undergone more than six years actual imprisonment. It is his further submission that even on the basis of the evidence on record, it cannot be said that prosecution has proved the age of the victim. It is his submission that admittedly, the father of the victim has disclosed the age of the victim to be 19 years at the time of her marriage with the present applicant/appellant. Learned Counsel for the applicant/appellant also submits that there is unexplained delay in lodging of the report and the report came to be lodged only for the reason that the brother of the victim was against the marriage. According to him, in such circumstances, when the appeal is not likely to be heard in short period of time, the appeal shall become infructuous if the applicant/appellant is not enlarged on bail.

3. Learned APP and learned Counsel for the respondent No.2 opposed the Application. It is their submission that there is evidence in the nature of birth certificate indicating that the victim is a minor. It is also contended that irrespective of other evidence on record, sole testimony of victim is sufficient to prove the guilt of the applicant/appellant.

4. In order to seek suspension of sentence, the applicant/appellant has to make out a prima facie case for fair chance of success in the appeal. At the same time, the period

already undergone by the applicant/appellant would also become relevant.

5. Herein this case prima facie this Court finds substance in the contention of learned Counsel for the applicant/appellant that the age of the victim as 19 years was disclosed not only to the accused but also to the *Moulavi* who performed the marriage of applicant and victim. Similarly, there is unexplained delay in lodging of the report and which makes the case of the applicant/appellant probable that it is only because of the opposition of the brother of the victim, the offence came to be registered. The applicant/appellant has already undergone six years of sentence total ten years imprisonment imposed against him. There is no possibility of this appeal being taken up hearing in short period of time. Hence, the following order.

ORDER

- (a) The Interim Application is allowed.
- (b) The substantive sentence imposed against the Applicant/ Appellant by Judgment and Order dated 30th August, 2025, passed in POCSO Spl. Case No. 412 of 2019 stands suspended till decision of the Appeal.
- (c) The Applicant/Appellant be enlarged on bail on furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

(d) The Applicant/Appellant not to contact the victim or his family members in any manner whatsoever.

(e) Any breach of aforestated condition shall result into forthwith cancellation of bail.

6. In view of the above, Interim Application 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.

(R. M. JOSHI, J.)