

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1342 OF 2015
IN
CRIMINAL APPEAL NO.855 OF 2015

Vithal s/o. Bharat Tekale,
Age 23 years, occ. Agri.,
r/o. Talni, Tq. Sengaon,
Dist. Hingoli ..Applicant

Versus

The State of Maharashtra,
Through Police Station,
Narsi Namdo,
Tq. and Dist. Hingoli ..Respondent

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Mr.A.D.Raut, advocate for applicant

Mr.S.D.Ghayal, APP for respondent - State

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CORAM : M.T. JOSHI, J.
DATE : DECEMBER 14, 2015

PER COURT :

Heard both sides.

2] Aggrieved by the judgment and order of
conviction and sentence for the offences
punishable under Section 452, 363, 366-A of Indian

Penal Code and offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, passed by learned Addl. Sessions Judge, Hingoli dated 29th December, 2014 in Special Case (Ch) No.11 of 2014, the accused has presented an appeal and during the pendency of the appeal, he is seeking suspension of the substantive sentences.

. The major sentence is imprisonment for a period of seven years. All the sentences for the above offences were directed to run concurrently.

3] Upon hearing both sides, it is gathered that in the statement immediately recorded of the prosecutrix by the police, the prosecutrix appears to have stated that she had a love affair with the present applicant/appellant and she had eloped with him. In the witness box, she has, however, denied the said facts though she has stated that

she has made statement before the Investigating Officer.

4] According to the prosecution, the prosecutrix was born on 10th June, 1999 and as such, on the day of the incident i.e. on 22nd April, 2014, she was 14 years and 9 months old.

5] Learned counsel for the applicant submits that during the trial, the applicant was released on bail. There is no complaint of misuse of liberty by the applicant. Considering all these facts, learned counsel for the applicant submits that since hearing of appeal would take its own time, substantive sentences of the applicant may be suspended during pendency of the appeal.

6] Learned A.P.P. opposes the application.

7] Considering all the material on record and finding that hearing of the appeal may take its own time, in the background of the case as stated above, in my view, the substantive sentences can be suspended during pendency of the appeal.

8] Hence, the following order :-

A] The application is allowed.

B] During pendency of the appeal, the substantive sentences of the applicant are hereby suspended. Upon deposit of the fine amount, if not deposited earlier, the applicant/appellant be released on bail upon his executing P.R. bond in the sum of Rs.20,000/- (Rs.Twenty Thousand) and also upon furnishing surety in the like amount. Humdast allowed.

[M.T. JOSHI, J.]