

Ladda

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1066 of 2015
IN
CRIMINAL APPEAL No. 833 of 2015.

Saibu Hiru Rathod ..Applicant/Appellant.
Versus
The State of Maharashtra ..Respondent.

Mr Satyavrat Joshi, Advocate for the Applicant.
Mr A.R. Patil, APP for the State.

CORAM : A.R.JOSHI,J
DATE : 2nd September,2015.

P.C. :

- 1) Heard the learned Counsel for the applicant and also heard the learned APP for the State on the application for bail during pendency of the appeal and suspension of the substantive sentence. The appeal preferred by the appellant/applicant is already admitted.
- 2) The applicant is convicted for the offence punishable under section 354 of IPC and under sections 8, 10 and 12 of the Protection of Children from Sexual Offences Act, 2012. During the trial, the applicant was on bail. After his conviction for the offence punishable under section 10 of the Protection of Children from Sexual Offences Act, 2012 for five years, he was taken in custody.

3) During the arguments, it is brought to the notice of this Court that there is discrepancy in the substantive evidence of PW no.2. i.e. one of the girls as to on which date the incident with respect to her occurred. According to the statement of the girl recorded by the police, it occurred on 14th July, 2013 which falls on Sunday. However, according to her substantive evidence before the trial court the incident occurred on 13th July, 2013. It is also brought on record on behalf of the applicant that on 14th July, 2013 the applicant was not at Pune and had rather established the alibi.

4) So far as another girl PW no.1 is concerned, according to her, on 15th July, 2013 at about 5:30 p.m. on the play ground, the applicant caught hold of her hand and uttered the words to the effect that he was in love with her. Due to this incident both the girls were frightened and initially did not disclose to anybody but subsequently the disclosure was on 16th July, 2013 to PW no.4, the Superintendent of the hostel. The FIR was registered by said PW no.4 on 18th July, 2013.

5) Considering these circumstances and the effect of the substantive evidence brought before the trial court, in the opinion of this Court, the present applicant can be released on bail, mainly when he was on bail during the trial. During pendency of the trial, he was under suspension and

apparently now he may loose his job after the conviction has been awarded by the trial Court. As such, the present application is allowed. Hence, the following order :-

ORDER :-

- (a) The applicant be released on same bail, as granted by the trial Court, with fresh bonds to be executed before the trial Court.
- (b) The present order will be effective only after the applicant/accused deposits the fine amount in the trial Court.
- (c) The application is accordingly disposed of.

(A.R. JOSHI, J.)