

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR

Criminal Appeal No.21 of 2015

(Shyam Mahadeo Patmase

vs.

The State of Maharashtra, through P.S.O. Warud, District Amravati)

=====

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

=====

Court's or Judge's Orders

CORAM : PRASANNA B. VARALE, J.

DATE : JANUARY 28, 2015.

Heard Mr. A.J. Thakkar, the learned Counsel for the applicant.

ADMIT.

Call for record and proceedings.

Criminal Application [APPA] No.38/2015 :-

Heard.

The learned Counsel for the applicant submits that the applicant has raised substantial grounds in the appeal. He submits that the learned Sessions Judge, Amravati failed to appreciate that there is material variance and contradiction in the testimony of the alleged eye witnesses. He further submits that the sentence awarded to the applicant is of two years and the same can be termed as a short sentence. He further submits that the applicant was released on bail during pendency of the trial and he has not misused the liberty granted to him.

Mr. M.J. Khan, the learned A.P.P. for the State opposes the application. He submits that the applicant committed a serious offence. He further submits that the material clearly reveals an act of exploitation of a child.

Though the learned A.P.P. submits that the act of the applicant spells out the sexual exploitation of a child, the incident alleged is of the year 2002 and considering this fact, the learned Sessions Judge, Amravati arrived at a conclusion that the provisions of the Protection of Children from Sexual Offences Act, 2012 may not be applicable to the facts of the case. There is no dispute on the fact that the sentence awarded to the applicant is of two years and the same can be safely termed as a short sentence and it may take sometime to hear the appeal finally.

The learned Counsel for the applicant submits that the applicant would deposit the fine amount along with the bail.

Considering the submissions of the learned Counsel for the applicant, I am of the opinion that the applicant has made out a case for suspension of sentence and grant of bail.

In the result, the application is allowed.

The applicant be released on bail on his furnishing fresh bond in the same amount and on the same terms and conditions as they were during pendency of the trial. The substantive sentence imposed on the applicant by the trial Court shall remain suspended during pendency of the appeal.

Fine amount, if any, be deposited within a period of one week.

The application stands disposed of as such.

Hamdast granted.

JUDGE