

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.225 OF 2016

IN

CRIMINAL APPEAL NO.1116 OF 2015

PRAVIN KUNDLIK THORAT

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA & ANR.

)...RESPONDENTS

Shri Vilas B. Tapkir, Advocate for the Applicant.

Shri J.S.Yadav, Advocate for Respondent No.2.

Smt.M.R.Tidke, APP for the Respondent - State.

CORAM : ABHAY M. THIPSAY, J.

DATE : 28th MARCH 2016.

P.C. :

1 The appeal filed by the applicant challenging his conviction for the offences punishable under Section 376 and Section 506 of the Indian Penal Code (IPC), as also the offences punishable under Section 4 and Section 8 of the Protection of Children from Sexual Offences Act (POCSO Act), and the sentences imposed upon him, has already been admitted.

2 By the present application, the applicant prays that pending the hearing and final disposal of the appeal, the substantive sentences imposed upon the applicant be suspended; and that, he be released on bail.

3 I have heard Shri Vilas Tapkir, the learned counsel for the applicant. I have heard Shri J.S.Yadav, the learned counsel for respondent no.2. I have also heard Smt.M.R.Tidke, the learned APP for the State – respondent no.1.

4 Shri Vilas Tapkir, the learned counsel for the applicant, submitted that the applicant has a good case on merits, and that, actually, the victim – respondent no.2 herein – was not a minor at the material time. He submitted that this was clear from the evidence that was adduced during the trial. He further submitted that, in any case, the victim is now married and is herself seeking that the applicant be released on bail.

5 Shri J.S.Yadav, the learned counsel for respondent no.2, supported the statement that the victim is now married, that she was major at the material time, and that, she desires that the applicant be released on bail. An affidavit of the victim is tendered by the learned counsel for the victim / respondent no.2. The same is taken on record. It is seen that according to respondent no.2, not only the applicant deserves to be released on bail, but that, his appeal also deserves to be allowed.

6 By questioning the victim, who is present in the court, I have ascertained that the affidavit has been filed by her voluntarily.

7 Considering all the relevant aspects of the matter, though the appeal cannot be allowed just on the statement of the victim recorded in the affidavit, it would be proper to suspend the substantive sentences imposed upon the applicant.

8 The application is allowed.

9 Pending the hearing and final disposal of the appeal, the substantive sentences imposed upon the applicant / appellant shall stand suspended; and the applicant / appellant shall be released on bail in the sum of Rs.25,000/- with 1 surety in like amount, on the condition that he shall report to the trial court on the first Monday of each calendar month, till the disposal of the appeal against him.

 Should the trial court be closed on any given Monday, the applicant / appellant shall report to the trial court on the next working day.

10 The hearing of the appeal is ordered to be expedited. The same be listed for **Final hearing on 26th April 2016.**

11 To avoid delay in disposal of the appeal, paper book is dispensed with.

12 Call for Record and Proceedings without paper book.

(ABHAY M. THIPSAY, J.)