

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 1391 OF 2016
IN
CRIMINAL APPEAL NO. 726 OF 2016

Shri. Rajendra Ramchandra Wavale

... Applicant

Vs.

The State of Maharashtra

... Respondent

.....

Mr. Vilas B. Tapkir for the Applicant.

Mr. P. H. Gaikwad Patil, APP for the Respondent-State.

.....

CORAM : A. M. BADAR, J.

DATE : 22nd November 2016

P.C.

1. This is an Application filed under Section 389 of the Code of Criminal Procedure for suspension of the sentence and releasing the applicant/accused on bail during pendency of the present Appeal.

2. Heard the learned counsel for the applicant/accused. He argued that the applicant/accused was on bail during pendency of the trial and a short sentence was imposed on him for recording his guilt for the offence punishable under Section 354-B of the Indian Penal Code and under Section 8 of The Protection of Children from Sexual Offences Act, 2012 (for short "the Act of 2012).

3. The learned APP is stating that he wants to read the evidence adduced by the prosecution in this case.

4. Perused the impugned judgment and order of conviction and the sentence as well as the evidence of the minor victim girl. The case of the prosecution is to the effect that the applicant/accused had put hand of the minor victim girl in his full pants. The applicant/accused is, therefore, held guilty of the offence punishable under Section 354-B of the Indian Penal Code and under Section 8 of the Act of 2012. He is sentenced to suffer R.I. for three years and to pay fine of Rs.3,000/- for the offence punishable under Section 354-B of the Indian Penal Code and similar sentence is imposed on him for the offence punishable under Section 8 of the Act of 2012. The sentences are directed to run concurrently. Undisputedly, the applicant/accused was on bail during pendency of the trial. Considering the pendency of the Appeals of under-trial prisoners before this Court, it is not possible for this Court to take up the instant appeal for final hearing. Considering the short sentence imposed on the appellant/applicant and as he was on bail during pendency of the trial and that he has not misused his liberty during pendency of the trial, the Application needs to be allowed with the following order:

ORDER

- I The Application is allowed.
- II The substantive sentences of imprisonment imposed on the applicant/accused are suspended and he is released on similar bail with fresh bonds.

(A. M. BADAR, J.)