

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.**

CRIMINAL APPLICATION NO.2446 OF 2017
IN
CRIMINAL APPEAL NO.192 OF 2017

Panduranag Narayan Jadhav ... **Applicant**

Versus

The State of Maharashtra ... **Respondent**

.....
Shri. G.B.Pimple, Advocate for Applicant
Smt. S.S.Raut, A.P.P. for State
.....

CORAM : V.L. ACHLIYA, J.

Dated: June, 21, 2017.

PER COURT:

1. The applicant has moved this application seeking suspension of the sentence and released on bail during pendency of the appeal on the grounds set out in the application.

2. Heard learned counsel for the applicant and APP for the State. Perused the impugned judgment and order passed by the Trial Court as well as the copies of depositions placed on record.

3. The applicant / appellant tried for offences punishable under Section 354 of Indian Penal Code, and Section 9(f) read with

Section 10 of Protection of Children from Sexual Offences Act (for short POCSO Act), with an allegation that on the date of incident i.e. on 16.08.2013, the applicant / appellant who was then working as a Teacher committed sexual assault on a female child, aged 13 years old, who was her student and studying in 7th standard, that too in school premises. On conclusion of trial, the applicant / appellant was held guilty of offence under Section 10 read with Section 9(f) of POCSO Act and sentenced to suffer R.I. for 5 years and fine of Rs.2,000/-. Being aggrieved, the appellant had preferred this appeal.

4. It is the contention of learned counsel for the appellant / applicant that, the conviction is not sustainable in law for the reason that, the prosecution has not examined the witnesses, who were present at the alleged time of incident. He submits that, the conviction has based solely on the testimony of victim girl. He further submits that, the applicant is falsely implicated in the case at the behest of his rival to defeat his right to be promoted to higher post. He further submits that, the applicant is a physically disabled person and sole earning member in his family, which consist of his wife and one child who are wholly dependent upon him. He further submits that, during the trial, the applicant was on bail. He has not misused the liberty granted during the pendency of trial.

5. On the other hand, the learned APP opposed the

application with contention that, there is strong evidence to sustain the charge against the applicant. She submits that, the prosecutrix has fully supported the case of prosecution. The judgment and order passed by the trial Court is reasoned and calls for no interference in appeal order. She further submits, that the age of the applicant and dependency cannot be a ground to enlarge the applicant on bail.

6. In order to appreciate the submissions advanced, I have perused the impugned judgment and order, copies of the depositions of witnesses placed on record. Considering the rival submissions, I am of the prima facie view that, there is sufficient evidence to sustain the conviction of the appellant. Prosecutrix has fully deposed as per the case of prosecution. She has categorically deposed as to act of sexual assault committed by the applicant on the date of incident. The applicant was serving as a Teacher and the victim girl was her student. The act committed by the accused is a heinous act. Looking to overall nature of the offence, the act committed by the accused, the sentence awarded and nature of act committed by accused with her student, I am of the view that, no discretion deserves to be exercised to enlarge the applicant on bail. I am, therefore, not inclined to entertain the application seeking suspension of sentence and release the applicant on bail. In order to avoid prejudice being caused appellant due to pendency of appeal, I am inclined to expedite the hearing of the appeal. Hence, the following order.

ORDER

1. The application is rejected.
2. The hearing of the appeal is expedited.
3. The Trial Court is directed to expedite the work of preparation of paper book and submit the record and proceeding of paper book within 12 weeks from the date of this order.
4. List the appeal for final hearing with paper book on 21st September, 2017.

(V.L. ACHLIYA, J.)

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