

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

**CRIMINAL APPLICATION NO. 2726 OF 2017
IN
CRIMINAL APPEAL NO. 222 OF 2017**

Sachin Dattarao Pawar

..... APPLICANT

V E R S U S

The State of Maharashtra

..... RESPONDENT

.....

Mr. H.V.Patil, Advocate for Applicant.

Smt. S.S.Raut, A.P.P. for Resp. - State.

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CORAM : V.L.ACHLIYA, J.

DATE : 12th JUNE, 2017

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ORDER :

1. The applicant has moved this application seeking suspension of sentence and release on bail during pendency of Appeal, for the reasons set out in detail in the application.

2. Heard the learned counsel for the applicant, A.P.P. for the respondent – State and further perused the

impugned Judgment and order passed by the trial Court.

3. The applicant was tried for committing offences punishable u/s 363,366 of the Indian Penal Code and u/s 3 [ii] [v] of the Scheduled Castes and Scheduled Tribes [Prevention of Atrocities] Act, 1989 [for short, 'S.C. & S.T. Atrocities Act'] with allegation that he has kidnapped the minor girl aged 15 years from the lawful custody of the guardian i.e. father of the victim. On the basis of the complaint lodged by the father of the victim girl, said offences came to be registered. On conclusion of trial, trial Court has convicted the applicant for the offences punishable u/ss 363 and 366 of the Indian Penal Code. Maximum sentence awarded is rigorous imprisonment for three years. In order to enable the applicant to prefer Appeal, trial Court has suspended the sentence.

4. Learned counsel for the applicant strenuously contended that the conviction is not sustainable for the reason that the prosecution has failed to prove that the applicant has enticed the prosecutrix from the lawful custody of her father. He submits that the victim girl has left the custody of her guardian on her own as they

wanted to send her for education to Aurangabad. He further submits that there was affair between the prosecutrix and the applicant. In fact, the prosecutrix herself left her house and insisted the accused to go along with her. He further submits that there was no act of enticing the minor girl committed on the part of the applicant.

5. On the other hand learned A.P.P. opposed the application. She submits that there is strong evidence to establish the guilt of the accused. She further submits that the prosecutrix has supported the prosecution case. Learned A.P.P. submits that in case the applicant is released on bail, there is every possibility that he may harass the prosecutrix.

6. Having considered the overall facts of the case, nature of the offences committed by the applicant and the sentence awarded, I am of the view that case is made out to release the applicant on bail during the pendency of Appeal. During the trial, the applicant was on bail. It is nowhere the case of the prosecution that during trial, the applicant has mis-used the conditions of bail. Trial Court has suspended the sentence enabling the

applicant to prefer Appeal. At the time of commission of the offence, age of the applicant was 18 years. Looking to the age of the applicant and as there are no previous antecedents against the applicant, I am of the view that the applicant is entitled for bail. Hence, I pass the following order.

ORDER

[1] Pending disposal of the appeal, the execution of substantive sentence stands suspended subject to deposit of fine amount by the applicant.

[2] Applicant Sachin Dattarao Pawar be enlarged on bail on his furnishing bail in the sum of ₹ 25,000/- [Rupees Twenty Five Thousand] with one or two sureties in like amount on following conditions.

[i] Pending disposal of the Appeal, the applicant shall appear and record his appearance before the Police Inspector of Basamba Police Station, Dist. Hingoli on 2nd Sunday in each month in between 5.00 to 8.00 p.m.

[ii] The applicant shall not give any threat to the victim girl.

[iii] The applicant shall not indulge in the commission of any criminal offence.

[iv] The applicant shall furnish the names and addresses of his three (3) close relatives.

[3] In case of breach of any condition, the bail granted to the applicant shall be liable to be cancelled.

[4] Police Inspector of Basamba Police Station, Dist. Hingoli is directed to submit the report in respect of compliance of conditions after every six months.

[5] Bail to be furnished in the trial Court within the period of suspension as ordered by the trial Court or within one week from the date of this order. Failure to furnish the bail within the stipulated period, the order of grant of bail stands cancelled. Compliance report be sent to this Court.

[V.L.ACHLIYA, J.]