

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.997 OF 2017
IN
CRIMINAL APPEAL NO. 606 OF 2017

Vithhal Shrirang Kamble and anr.	...Applicants.
Versus	
The State of Maharashtra	...Respondent

Mr. N.N.Gaware i/b V.S.Tadake for the Applicants
Mr. Prashant Jadhav,APP for the State.

CORAM: SMT.ANUJA PRABHUDESSAI, J
DATED: 18th AUGUST, 2017

PC:-

1. By this Application the Applicants have sought bail and suspension of execution of sentence imposed by the Additional Sessions Judge, Pune in Special Case No.24 of 2016 for an offences punishable under Sections 363, 366, 212, 376, 506(2) of Indian Penal code and so also under Section 41 of Protection of Children from Sexual Offences Act.

2. The learned Counsel for the Applicants, under instructions from the Applicant No.1 submits that at this stage he is not pressing for any relief as against the Applicant No.1 and that he is restricting his argument only as regards the execution of suspension of sentence imposed on the Applicant No.2.

3. Heard the learned Counsel for the Applicants and the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsels for the respective parties.

4. The records reveal that the Applicant No.2, who is the father of the Applicant No.1 has been convicted for the offence punishable under Sections 363, 366 and 506 (2) of the Indian Penal Code. The maximum sentence imposed against the Applicant No.2 is of 5 years of imprisonment and to pay total fine of Rs.12,000/-.

5. The case of the prosecution is that the Applicant No.1, who is the son of the Applicant No.2 had sexual intercourse with the prosecutrix, who as on the date of the incident was 15 years of the age. It is the case of the prosecution that the Applicant No.1 had threatened to commit suicide in the event the prosecutrix did not accompany him. The only allegation against the Applicant No.2 is that he had threatened the prosecutrix by stating that in the event his son i.e the Applicant No.1 commit suicide, he would send the parents of the prosecutrix to the jail. It is stated that in view of the said threats the prosecutrix had accompanied the Applicants to Swargate.

6. The records prima facie reveal that the Applicant No.1 and the victim had stayed in a lodge on 15.7.2015 till 17.7.2015. The statement of PW-4 Manish Joglekar, Lodge Manager does not indicate that the Applicant No.2 had accompanied the prosecutrix and the Applicant No.1 in the said lodge. Considering the nature of the allegations against

the Applicant No.2 and also the nature of the evidence in support thereof, in my considered view, this is a fit case for suspending the execution of sentence as against the Applicant No.2. Furthermore, Applicant No.2 was on bail during the pendency of the trial and there are no allegations of violation of any terms and conditions of bail. Considering the above all facts and circumstances, I pass the following order:-

ORDER

- (i) The Application as against the Applicant No.1 is dismissed as not pressed;
- (ii) As far as the Applicant No.2 is concerned, the execution of substantive sentence imposed by the Additional Sessions Judge, Pune in Special Case No.24 of 2016 is suspended till final disposal of the case;
- (iii) The Applicant No.2 is ordered to be released on bail on furnishing bail bonds of Rs.20,000/-(Rs.Twenty thousand only) with one surety to the like amount to the satisfaction of the Additional Sessions Judge, Pune;

(iii) The Applicant No.2 shall furnish his contact number and permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court;

(iv) The Applicant No.2 shall not interfere with the victim in any manner.

7. The Application stands disposed of.

(ANUJA PRABHUDESSAI,J)