

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1082 OF 2017
IN
CRIMINAL APPEAL NO.9 OF 2016

Sunil Somnath Rathod ...Applicant

Versus

The State of Maharashtra & Ors. ...Respondents

Mr. Uday P. Warunjikar, Adv. for the Applicant.

Mr. Y. M. Nakhwa, APP for the State-Respondent.

CORAM : A. A. SAYED AND
SARANG V KOTWAL, JJ.

DATE : 12 SEPTEMBER, 2017

P. C.:

1. This is an Application for suspension of sentence and enlargement on bail of the Applicant, who was an Accused before the Special Judge, Solapur. By judgment and order dated 8.10.2015 the Trial Court has convicted the Applicant for the offence punishable under Sections 376(2) IPC and under Section 6 of Protection of Children from Sexual Offences Act,

and sentenced to suffer life imprisonment and to pay fine of Rs.50,000/-, in default, to suffer S.I. for 1 year. He was also convicted for the offences punishable under Sections 313, 315 and 316 IPC, and sentenced to suffer Rigorous Imprisonment for 10 years and to pay fine of Rs.50,000/-, in default, to suffer S.I. for 1 year.

2. Learned Counsel appearing for the Applicant has pointed out that the Applicant and the prosecutrix were in a relationship, however, the prosecutrix was a minor at the relevant time. He submitted that the prosecutrix Supriya has become major on 1st July 2017. A copy of School Leaving Certificate is annexed to the Application. It is submitted that the Applicant and prosecutrix have decided to perform marriage and the parents of the Applicant and the parents of the prosecutrix are ready to accept them as husband and wife.

3. Learned Counsel further pointed out that before the Trial Court, the prosecutrix was declared hostile and she did not support the case of the prosecution. He pointed out that the Applicant was arrested on 10.05.2015 and he is in custody since

then. He therefore urged that the Applicant be released on bail.

4. On 22nd August 2017, we had interviewed the Applicant/Accused, the prosecutrix Supriya as well as the parents of the Applicant in chamber. Today we have interviewed the parents of the prosecutrix. We are satisfied that the desire of Applicant and the prosecutrix (as well as their parents) of performing marriage is bonafide.

5. Having heard the learned Counsel appearing for the Applicant, we are satisfied that a case is made out to grant bail to the Applicant. Even otherwise, we find that the evidence on behalf of the prosecution before the Trial Court is quite weak in as much as the prosecutrix had turned hostile.

6. In these circumstances, we pass the following order:-

ORDER

(i) The Applicant be released on bail on executing P.R. Bond of Rs.25,000/- and his furnishing one or two sureties of the like amount.

(ii) The Applicant shall report to the concerned Police Station

where he resides every quarter starting from 1st October, 2017 at 11.00 am.

7. The Criminal Application is disposed of accordingly.

[SARANG V KOTWAL, J.]

[A. A. SAYED, J.]