

IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL MISC. APPLICATION NO. 100 OF 2018
IN
CRIMINAL APPEAL NO. 26 OF 2018

SHYAM GEORGE., ... Applicant

Versus

STATE THR. PUBLIC PROSECUTOR., ... Respondent

Mr. Menino Teles, Advocate for the Applicant.

Mr. S.R. Rivankar, Public Prosecutor for the Respondent.

Coram:- C. V. BHADANG, J.

Date:- 28th March 2018

P.C.

This is an application for suspension of sentence. The applicant, who is the accused no. 2 has been convicted for the offence punishable under Section 8(9) of the Goa Children's Act, 2003 and has been sentenced to suffer simple imprisonment for a period of one year and to pay a fine of Rs.1 lakh and in default to undergo simple imprisonment for a period of six months.

2. The applicant was all along on bail during the course of the trial. The Criminal Appeal is admitted.

3. In this case, the accused no. 1, who is the father of the present applicant has filed Criminal Appeal No. 25/2018 and this

Court has suspended the substantive sentence of imprisonment on certain conditions, including payment of the fine amount within 15 days.

4. The learned Counsel for the applicant, however, submits that the present application stands on a better footing, in as much as, the applicant was a minor in the year 1996, since when the victim girl was residing in the house of the applicant. Further, it is submitted that the applicant is unemployed and has no means to deposit the fine. The learned Counsel therefore submits that even the sentence of the fine be suspended. In the alternative, it is submitted that the applicant shall deposit 50% of the fine, within four weeks.

5. The learned Public Prosecutor submits that all the three accused have been convicted for a similar offence. However, *prima facie*, it is not disputed that the girl was staying at the house of the applicant, since the year 1996, when the present applicant was a minor.

6. On hearing the learned Counsel for the parties, *prima facie*, I find that according to the prosecution, the victim girl was residing at the house of the applicant, since the year 1996, when the applicant was a minor and thus, *prima facie*, a similar degree of complicity may not be attributable to the applicant. Further,

considering the fact that the applicant is stated to be unemployed, without any means, I find that the sentence can be suspended, subject to condition of deposit of 50% of the fine, within a period of four weeks from today.

7. In the result, the following order is passed:

O R D E R

(a) The substantive sentence of imprisonment, awarded to the applicant is suspended during the pendency of the appeal, on condition of the applicant furnishing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(b) The applicant shall deposit 50% of the fine imposed, within four weeks from today.

(c) Bail Bonds to be furnished before the learned Children's Court.

C. V. BHADANG, J.

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