

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.81 OF 2018

IN

CRIMINAL APPEAL NO.39 OF 2018

SANDEEP NAGIN PATEL

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Rakesh Bhatkar, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 14th FEBRUARY 2018

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. He is convicted of the offence punishable under Section 325 of the Indian Penal Code and under Section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015. On each count, he is sentenced to suffer rigorous imprisonment for 5 years and that of 3 years respectively.

2 Heard the learned advocate appearing for the applicant/accused as well as the learned APP. The learned advocate for the applicant/accused drew my attention to the evidence of PW8 Dr.Choudhari as well as that of PW2 Sangita Sakpal to demonstrate that victim child Subidha was with PW2 Sangita Sakpal up to 13th October 2016, when the child suffered injuries.

3 The learned APP opposed the application by contending that as PW2 Sangita Sakpal is illiterate, much importance cannot be given to such discrepancy.

4 I have considered the rival submissions and also perused copies of deposition of prosecution witnesses as well as the impugned judgment and order of conviction and resultant sentence.

5 PW8 Dr.Chaudhari had treated the victim child named Subidha on 13th October 2016 at his hospital and found the child

to have suffered brain injury as well as other injuries. In her cross-examination, PW2 Sangita Sakpal – mother of the victim child, has deposed that, from 1st October 2016 to 13th October 2016, she was staying at the place of her mother along with her daughter and it was on 14th October 2016, she met the applicant/accused.

6 As stated earlier, the victim child was found to have suffered injuries on 13th October 2016. At the time of hearing of the appeal, it will have to be decided as to whether the applicant/accused was the author of those injuries or somebody else had caused those injuries.

7 The applicant/accused was on bail during pendency of the trial and short sentence of imprisonment is imposed on him. The appeal may not be heard within five years, considering the pendency of the appeals before this court. Hence, the order :

ORDER

- i) The application is allowed.

- ii) Substantive sentence of imprisonment imposed on the applicant/accused is suspended and the applicant/accused is ordered to be released on bail, on his executing PR.Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant/accused should not repeat commission of similar offence in future.
- iv) The application is disposed of.

(A. M. BADAR, J.)