

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 1770 OF 2018

IN

CRIMINAL APPEAL NO. 1245 OF 2018

Akash Kisan Aadgale

...Applicant

Versus

The State of Maharashtra

...Respondent

Sagar Tambe i/b Ritesh Thobde – Advocate for the applicant.

Ms. Juamita Menerses for original complainant

Mrs. J. S. Lohakare – APP for the Respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 25th JULY, 2019.

P.C. :

On the last occasion, that is on 3rd July 2019, I passed a detailed order about what is said to be an amicable settlement between the families of the victim girl and the accused. Appearing in person, the victim, now 22 years, told the Court that she wants to marry the applicant provided he also promises, through an affidavit, to marry her.

2. When I wanted to know more about this arrangement, the learned counsel on either side have informed me that the parents of the both parties, too, were present. To enable the

parties to file the affidavits before the Court about the decision they had taken, I adjourned the matter.

3. Today again, the victim and her parents are present. For the applicant, his sister is present. The learned counsel on the either side have handed over affidavits of the victim and the applicant. Those affidavits were taken on file and mark as “X” and “X-1”.

4. After going through the affidavits, I gather that the victim girl is now 22 years and the applicant is 25 years. They both stress that they have been in love for many years and they are willingly eloped, the victim’s minority notwithstanding. As I have noted earlier, this arrangement of their both getting married may not dilute the crime. Yet the Court will not come in the couple’s way to marry—solemnize the relationship. It is entirely for the two consenting majors.

5. I have seen from the record the applicant has been tried and convicted for the offences under Sections 363, 366, 376 of IPC and Sections 3 and 4 of POCSO Act. The Additional Sessions Court for POCSO offences, in Crime No. 287 of 2015, sentenced the applicant to undergo, among other things, 10 years rigorous imprisonment. The respective counsel for the applicant and the victim, as well as the learned the learned Additional Public Prosecutor, submit that the applicant has been in Jail ever since he was arrested pending the Trial. The period of his incarceration pre- and post-trial comes to over four years.

Under these circumstances, given the consensual

arrangement between the parties, I suspend the sentence and enlarge the applicant on bail subject to these conditions:

ORDER

(i) The Criminal Application is allowed.

(ii) Substantive sentence imposed on the applicant is suspended and he is directed to be released on bail on his executing P.R. Bond for Rs. 25,000 /- and on his furnishing two sureties, each for the like amount.

(iii) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail now granted to the applicant.

[DAMA SESHADRI NAIDU, J.]