

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.455 OF 2019

IN

CRIMINAL APPEAL NO.423 OF 2019

MITRAPRASAD @ GOVIND SHIVLAL BHURTEL)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA AND ANR.)...RESPONDENTS

Mr.Adwait Bhonde, Advocate for the Applicant.

Mr.A.R.Kapadnis, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 9th MARCH 2020

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/convicted accused on bail during pendency of the appeal filed by him. The applicant/accused is convicted of the offence punishable under Section 376(2)(i) of the Indian Penal Code apart from Section 4 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as POCSO

Act for the sake of brevity) and is sentenced to suffer rigorous imprisonment for 10 years apart from direction to pay fine of Rs.25,000/- and in default, to undergo rigorous imprisonment for 6 months.

2 Heard the learned counsel appearing for the applicant/convicted accused. He argued that the applicant/convicted accused has already undergone six years of rigorous imprisonment. By drawing my attention to evidence of the victim female child/PW1 it is argued that she has framed the applicant/convicted accused as she was not willing to accompany her sister Ushadevi and her husband to Bhoisar. It is further argued that evidence in respect of alleged penetrative sexual assault has come on record by way of omission. It is further argued that evidence of PW2 Laxmi – mother of the victim female child goes to show that she was having suspicion about affair of the victim female child with the applicant/convicted accused, and therefore, the applicant/convicted accused is implicated in the crime in question.

3 The learned APP opposed the application by contending that evidence of victim is corroborated by medical evidence.

4 I have considered the submissions so advanced and also perused the material placed on record. The victim female child was examined by PW6 Dr.Shailendra Pawar and his evidence corroborates the evidence of victim female child in respect of penetrative sexual assault on her by the applicant/convicted accused. Evidence of the victim female child is to the effect that on 8th December 2016 the applicant/convicted accused had committed penetrative sexual assault on her.

5 Considering the nature of evidence available on record, no case for grant of bail is made out even though it is averred that the applicant/convicted accused has undergone sentence of six years. Hence the order :

ORDER

- i) The application is rejected.
- ii) Hearing of the appeal is expedited.
- iii) Registry to take steps for preparing the paper book.

(A. M. BADAR, J.)

Arti V.
Khatate

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