

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRI. I.A. NO. 1082 OF 2020****IN****CRIMINAL APPEAL NO. 345 OF 2020**

Sachin Maruti Gaikwad

....Applicant.

Vs.

State of Maharashtra & Anr.

....Respondents.

Mr. Nagraj Shinde for the Applicant.

Mr. Amit Palkar APP, for the Respondent No.1-State.

None for the Respondent No.2.

CORAM : A. S. GADKARI, J.**DATE : 18th DECEMBER, 2020.****P.C.:-**

This is an Application for suspension of sentence and releasing the Applicant on bail.

2 Heard Mr. Shinde, learned Advocate for the Applicant and Mr. Palkar, learned APP for the Respondent No.1-State.

3 Applicant is Original Accused No.3. The Applicant is convicted under Sections 363 and 366-A of the Indian Penal Code and under Sections 3, r/w 4, r/w 17 read with 8 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 (for short, "POCSO Act") and is sentenced to undergo maximum rigorous imprisonment for 7 years and to pay total fine amount of Rs.4,000/-, by the learned Ad-hoc Special Judge, Barshi in

Special Case No.5 of 2017, by its Judgment and Order dated 16th December, 2019.

4 The prosecution case in nutshell is that, the principal Accused (A-1) Mahadu S. Deokar in connivance with the Applicant and Rama A. Pawar (A-2), abducted prosecutrix, who was aged about 15 years, from the village Shelgaon (R), Taluka Barshi and took her to Sudarshan Dhaba situated on Solapur-Barshi Road. The original Accused No.1 committed rape on the prosecutrix in the said Dhaba. It is the allegation against the Applicant that, he was standing out side the said Dhaba when the Accused No.1 committed rape on two consecutive occasions.

5 Learned counsel for the Applicant submitted that, the Applicant has undergone actual imprisonment for 4 years and 1 month i.e. 2/3 of his sentence as of today, out of the total rigorous imprisonment of 7 years imposed upon him. He submitted that, there are no antecedents at the discredit of the Applicant. He further submitted that, as per his instructions, the Applicant has not deposited fine amount till today, however, the Applicant will deposit the entire fine amount in the Registry of the Trial Court before his actual release from Jail. The said statement is accepted.

6 The record indicates that, the role attributed to the Applicant is that, he was standing out side the said Dhaba and kept watch where the

Original Accused No.1 committed rape on prosecutrix. The allegations of sexual assault and motive are attributed to the Accused No.1.

7 In view of the above and the fact that, the Applicant has undergone more than 4 years of actual imprisonment out of 7 years sentence imposed upon him, the sentence imposed upon the Applicant can be suspended and he can be released on bail.

Hence the following Order:-

- a) During the pendency of the present Appeal, the substantive sentence imposed upon the Applicant is suspended.
- b) Applicant be released on bail in Special Case No.5 of 2017, on his furnishing PR bond of Rs.15,000/- with one or two local sureties in the like amount.
- c) Before his actual release from Jail, the Applicant shall deposit the entire fine amount imposed upon him by the impugned Judgment and Order in the Registry of the Trial Court.
- d) After his release from Jail and during the pendency of the present Appeal, the Applicant shall not enter the territorial jurisdiction of Barshi Taluka, except for marking his presency as directed here-in-below.

- e) After his release from Jail and during the pendency of the present Appeal, the Applicant shall attend Vairag Police Station, on every first Monday of the month between 10.00 a.m. and 12.00 noon, initially for a period of one year.

After end of one year, the Applicant shall attend Vairag Police Station, on every first Monday of the every 3rd Month between 10.00 a.m. and 12.00 noon. The Applicant thus, shall attend Vairag Police Station, 4 times in a year during the pendency of the present Appeal.

- f) If the Applicant commits two consecutive defaults in complying with condition No.(e) above, in that event, the prosecution will be at liberty to file an Application for cancellation of bail.
- g) Before his actual release from Jail, the Applicant shall furnish all relevant documents of his prospective residential address where he intends to reside, to Vairag Police Station.
- h) Applicant shall not contact the prosecutrix and her relatives.

8 Application is allowed in the aforesaid terms.

9 This Order will be digitally signed by the Private Secretary of this Court. All concerned will act on production by fax or e-mail of a digitally signed copy of this Order.

(A.S. GADKARI, J.)

Sanjiv S.
Mashalkar

Digitally signed
by Sanjiv S.
Mashalkar
Date:
2020.12.18
15:53:26 +0530