

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1256 OF 2020
WITH
INTERIM APPLICATION (ST) NO. 2905 OF 2020
IN
CRIMINAL APPEAL NO. 400 OF 2020**

Nitin Prakash Suryawanshi ... Applicant/Appellant
V/s.
The State of Maharashtra & Anr. ... Respondents

Mr.Vikas Shivarkar for Applicant/Appellant.
Mr. S.S. Hulke, A.P.P. for Respondent-State.

CORAM : A.S. GADKARI, J.
DATE : 9th October 2020.

PC. :

These are applications for suspension of sentence and releasing the applicant on bail.

2. Heard Mr. Shivarkar, learned counsel for the applicant and Mr.Hulke, learned A.P.P. for the respondent-State.

3. Perusal of testimony of the prosecutrix would indicate that, on the date of incident, i.e. on 19th January 2016, she was more than 17 years of age. That, the applicant had proposed her for marriage. The prosecutrix on her own will left the lawful guardianship of her parents and joined company of the applicant. The applicant and prosecutrix thereafter resided at the house

of the friend of appellant by name Mr. Hemant for about four days. The record indicates that, on 19th January 2016 the prosecutrix had attained the age of understanding and discrimination and at her own free will joined the company of the appellant.

The record further indicates that, during the trial, the applicant was on bail and there is no report of his violating any of the condition imposed by the Court. The applicant was about 25 years of age on the date of alleged incident. Learned counsel for the appellant submitted that, there are no antecedent at the discredit of the appellant.

3. In view of the above, I am inclined to suspend the sentence and release the applicant on bail on certain conditions.

Hence, the following Order :-

- (i) During the pendency of the present Appeal, the substantive sentence imposed upon the applicant is suspended.
- (ii) The Applicant be released on bail in Special POCSO Session Case No.129 of 2016 on his furnishing P.R. bond of Rs.20,000/- with one or two local sureties in the like amount.
- (iii) Before his actual release from Jail, the applicant shall deposit entire fine amount in the Registry of the Trial Court.
- (iv) After his release from Jail and during the pendency of the present Appeal, the applicant shall attend Pimpri Police Station, Pune on every first Monday of the month between

10:00 am and 12:00 noon initially for a period of one year.

After end of one year, the applicant shall attend Pimpri Police Station on every first Monday of the every 3rd Month between 10:00 am and 12:00 noon. The applicant thus shall attend Pimpri Police Station 4 times in a year during the pendency of the present Appeal.

- (v) If the applicant commits three consecutive defaults in complying with condition No.(iv) above, in that event, the prosecution will be at liberty to file an application for cancellation of bail.
- (vi) During the pendency of the present Appeal, the applicant shall not contact the prosecutrix or her relatives.
- (vii) Applicant shall not tamper with the evidence and/or interfere with the process of investigation.

4. Applications are allowed in the aforesaid terms.

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

[A.S. GADKARI, J.]

Omkar S.
Kumbhakarn
Digitally signed
by Omkar S.
Kumbhakarn
Date:
2020.10.09
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