

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.973 OF 2019
IN
CRIMINAL APPEAL NO.334 OF 2017

Gaurav Narendra Singh

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.Vinod V. Kashid for applicant.

Ms.A.A.Takalkar, APP, for State.

Mr.Saurabh Nikalje for respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th November 2020

PC :

1. This is an application for suspension of sentence and grant of bail during pendency of appeal preferred by the applicant challenging the judgment and order dated 29th March 2017 passed in Sessions Case No.500 of 2013 convicting the applicant for the offence u/s 376 and 506 of Indian Penal Code.

2. The previous application for suspension of sentence was rejected by the co-ordinate Bench (A.M.Badar, J.) vide order dated 4th April 2018. Since Justice A.M.Badar is not available, the application was heard by this Court.

3. Learned advocate for the applicant submitted that although the previous application is rejected by this Court, there are change in circumstances to prefer this application for suspension of sentence. It is submitted that the applicant is in custody for a period of four years. The previous application was rejected on 4th April 2018 and

thereafter for a period of two years the appeal has not been heard. It is further submitted that the victim had filed two complaints. The other complaint was against her father for offence u/s 354A of IPC and under the provisions of POCSO Act. The victim was confronted by the defense in the present case in respect to the complaint by her against her father. The said case has resulted in acquittal vide judgment and order dated 7th December 2018. The victim had not supported the case and was hostile. The judgment of acquittal was passed after rejection of the application for suspension of sentence preferred by the applicant before this Court. It is submitted that the applicant has good case on merits. The victim is residing with the relatives of applicant. The father of applicant had forwarded complaints alleging that threats were issued by opponents that false complaint of rape would be filed. The complaint in respect to present case was filed thereafter. Applicant was granted bail pending trial.

4. Learned APP submitted that there is no change in the circumstance. The previous application was rejected on merits. The version of victim supports the prosecution case. The victim was thirteen years old at the time of incident. The accused was related to her.

5. Learned advocate for respondent no.2 controverted the submission that the victim is residing with the family members of applicant. He submitted that the complaint against father and the FIR lodged against the present applicant, cannot be equated. They are two different complaints. There is no ground to consider present application.

6. On perusal of order dated 4th April 2018 it is clear that this Court has dealt with previous application for suspension of sentence in detail and by assigning reasons the application was rejected. The submissions advanced by learned counsel for applicant cannot be considered as ground for suspending sentence. The submissions are to be considered while appreciating evidence at the time of hearing the appeal. In view of the order dated 4th April 2018, I do not find that any ground is made out to reconsider present application. Hence, I pass following order :

ORDER

(i) Criminal Application No.973 of 2019 is rejected and application is disposed of.

7. 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.

(PRAKASH D. NAIK, J.)

MST