

Anand

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

**LD/VC/OCR/175/2020
BAIL APPLICATION NO. 1471 OF 2019
IN
CRIMINAL APPEAL NO. 1186 OF 2019**

**WITH
INTERIM APPLICATION NO. OF 2020**

Vikas Balasaheb Kamble .Applicant

Vs.

The State of Maharashtra & anr. .Respondents

Mr. Sachin Deokar, Advocate, for the Applicant
Mr. R. M. Pethe, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 17.07.2020

(THROUGH VIDEO CONFERENCING)

P. C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his Appeal.

3. Perused the papers. The Applicant has been convicted by

the learned Special Judge (POCSO), Pune vide Judgment and Order dated 09.07.2019 for the alleged offences punishable under Section 376 of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act (for short 'POCSO'). The Applicant was, however, acquitted of the offences punishable under Section 354-D, 506 of the Indian Penal Code and under Section 5(1) & 6 of the POCSO Act.

4. Learned counsel for the Applicant submits that a perusal of the prosecutrix's and her mother's evidence shows that there was a love affair between the Applicant, who at the relevant time was 18 years and the prosecutrix, aged 16 years. Learned counsel relied on the evidence of the prosecutrix and her mother in support of his contention. He further submitted that the Applicant has been in custody for the last two years. According to the learned counsel for the Applicant, in fact, as is evident from the evidence of the prosecutrix, the Applicant and the prosecutrix were to get married, however, the Applicant was arrested in connection with another offence, pursuant to which the marriage could not take place.

5. Learned APP opposes the Application. He submitted that

there are two cases registered against the Applicant, however, the Applicant is released on bail in the said two cases.

6. Perused the papers, in particular, the evidence of the prosecutrix. Prima facie, it appears from the evidence on record that there was a relationship between the Applicant, who at the relevant time was 18 years and the prosecutrix, aged 16 years. It is evident that pursuant to their relationship, they had physical relations, pursuant to which the prosecutrix became pregnant. The prosecutrix in her cross examination has stated that even she did not want to lodge a complaint against the Applicant for the said offence and that even today, she has no complaint against the Applicant. She has further stated that the physical relations between her and the Applicant were with consent. The prosecutrix's mother's evidence is also on the same lines. The Applicant is in custody for about two years.

7. Having regard to the evidence on record, the Applicant's Application is allowed and the Applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms & conditions :-

ORDER

(i) The Applicant be enlarged on bail, on executing P. R. Bond in the sum of Rs. 15,000/- with one or two local sureties in the like amount;

(ii) The Applicant shall report to the trial Court, once in three months on the day / date specified by the trial Court, till his Appeal is finally disposed of;

(iii) The Applicant shall keep the trial Court informed of his current address and mobile contact number and / or change of residence or mobile details, if any, from time to time;

(iv) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file an Application seeking cancellation of bail.

8. The Application is allowed in the aforesaid terms and is accordingly disposed of.

9. In view of the order passed in B. A. No. 1471 of 2019, learned counsel for the Applicant does not press the Interim Application

and seeks leave to withdraw the same. Accordingly, the Interim Application also stands disposed of.

All concerned to act on the copy of this order, digitally signed by the Personal Assistant of this Court.

(REVATI MOHITE DERE, J.)