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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

915 CRIMINAL APPLN/1147/2021
IN
CRIMINAL APPEAL/279/2021

PIRAJI LAXMAN SATPUTE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant-Appellant : Mr. Rathi Swapnil S.
Mrs. RP Gour, APP for Respondent-State

CORAM : SMT.VIBHA KANKANWADI,J.
DATE : 4th June, 2021.
(VACATION COURT)

PER COURT :-

1. Heard learned Advocate and learned APP appearing for respective parties.

2. In this Criminal Application, the applicant prays for suspension of substantive sentences and releasing him on bail during pendency and final hearing of the Criminal Appeal.

3. The applicant is the original accused in Special Case No.88/2020, who has been convicted and sentenced, by learned Extra Jt. District Judge and Judge, Special Court (POCSO) Jalna, vide judgment and order dated 1st April, 2021, thus, -

a) For the offence punishable under Section 354 of IPC and sentenced to suffer R.I. for two years, and to pay fine

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of Rs.2,000/-, in default, R.I. for two months;

b) For the offence punishable under Section 354A(i) of IPC and sentenced to suffer R.I. for two years, and to pay fine of Rs.2,000/-, in default, R.I. for two months;

c) For the offence punishable under under Section 324 of IPC and sentenced to suffer R.I. for three years and to pay fine of Rs.2,000/-, in default, R.I. for three months;

d) For the offence punishable under Section 7 read with Section 8 of POCSO Act and sentenced to suffer R.I. for two years and to pay fine of Rs.2,000/-, in default, R.I. for three months; and

e) For the offence under Section 11(i) read with Section 12 of POCSO Act and sentenced to suffer R.I. for two years and to pay fine of Rs.2,000/-, in default, R.I. for three months.

. All the sentences are ordered to run concurrently.

. Out of fine amount, an amount of Rs. 5,000/- is ordered to be paid to the

victim as compensation.

4. It is vehemently submitted on behalf of the applicant that during the course of the trial, the applicant was on bail and he did not misuse the liberty and further the learned trial Court has also suspended the sentence till filing of the appeal. The applicant has also deposited the fine amount. The punishment so awarded is a short term sentence and, therefore, the applicant deserves to be granted the benefit as observed by the Hon'ble Apex Court in the case of Kiran Kumar Vs. State of M.P. The prosecution has utterly failed to prove charge levelled against the applicant by a cogent and reliable evidence on record and the conviction is not sustainable in law and facts of the case. Consequently, the applicant prays for releasing him on bail by suspending the substantive sentences awarded by the learned Sessions Judge on such terms and conditions as this Court may deem fit and proper.

5. Per contra, learned APP vociferously resisted the application and supported the reasons assigned by the learned Sessions Judge while convicting and imposing the sentences against the applicant. The learned APP submitted that the case is based on the direct as well as other evidence. The learned Sessions Judge has properly scanned scrutinized the evidence brought on record. It is, therefore, submitted that the application being sans merit, deserves to be dismissed and it be

dismissed accordingly.

6. As it appears from the impugned judgment of the learned Sessions Judge, particularly the sentences, that have been awarded against the applicant for several offences, are the short-term sentences. In view of the decision in the case of Kiran Kumar Vs. State of M.P. - (2001) 9 SCC 211, benefit will have to be extended to the applicant-appellant when he has demonstrated that the material and significant points raised by him in the appeal are required to be considered at the time of final hearing of the appeal. Further, the applicant was on bail throughout the trial, has not misused his liberty and he had also deposited the fine amount. In view of the matter, it can be said that a case is definitely made out for releasing the applicant on bail by suspending the substantive sentence during pendency and final disposal of the appeal. Hence, following order,-

ORDER

i. The Criminal Application stands allowed.

ii. The substantive sentence imposed on the applicant by learned Extra Jt. District Judge and Judge, Special Court (POCSO) Jalna, vide judgment and order dated 1st April, 2021, in Special Case No.88/2020, is hereby suspended till

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hearing and final disposal of the appeal.

iii. The applicant - be released on executing PR and SB of Rs.25,000/ (Rupees fifty thousand) each.

iv. The applicant shall not commit any criminal activity.

v. The applicant shall remain present before the learned Trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and, thereafter, the Trial Judge to fix dates for their subsequent appearances.

vi. In case of two consecutive defaults on the part of the applicant to remain present before the Trial Court, the Trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.

vii. Bail before the Sessions Court.

(SMT. VIBHA KANKANWADI)
JUDGE