

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL APPLICATION NO.4859 OF 2017
IN APEAL/468/2017 WITH APEAL/468/2017

VISHAL S/O. SANJAY NANNAWARE
VERSUS
THE STATE OF MAHARASHTRA

Mr.P.N. Mulay, Advocate for the applicant.
Ms.G.L. Deshpande, APP for the respondent/State.

CORAM : N.R.BORKAR, J.
DATED : 17.12.2021

PC :-

01. This is an application under section 389 of the Cr.P.C. for suspension of sentence and to release the applicant on bail.

02. The applicant came to be convicted for the offence punishable under section 363 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for five years. The applicant has been further convicted for the offence punishable under section 366(A) and sentenced to suffer RI for five years. He is further convicted for the offence punishable under section 376(2)(h) and

sentenced to suffer RI for ten years. In addition to this, the applicant has been convicted for the offence punishable under sections 9(1) r/w 10 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for five years. All the substantive sentences are directed to run concurrently.

03. I have heard learned Counsel for the applicant and learned APP for the respondent/State.

04. The learned Counsel for the applicant submits that the Trial Court erred in accepting the testimony of the prsecutrix. It is further submitted that the applicant is in jail since 14.04.2015 and has already undergone more than half of the sentence. Accordingly, it is submitted that the substantive sentence be suspended and the applicant be released on bail.

05. On the other hand, learned APP for the respondent/State submits that the applicant is involved

in serious offence of rape. It is submitted that considering the nature of offence, the sentence may not be suspended and the applicant may not be released on bail. The learned APP submits that instead the appeal be listed for final hearing.

06. I have perused the evidence of the prosecutrix. It appears that the applicant and the prosecutrix were known to each other. It further appears that the prosecutrix travelled to various places with the present applicant. The appeal is not ready for hearing. The applicant has already undergone more than half of the sentence. Considering these facts I am inclined to suspend the substantive sentence and to release the applicant on bail. Hence, the following order is passed :-

O R D E R

i) The application is allowed.

ii) The substantive sentence imposed upon the

applicant by the Trial Court is suspended and the applicant shall be released on bail on furnishing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

iii) Bail before the Trial Court.

iv) The record and proceedings be sent back to the concerned Sessions Court. The concerned Sessions Court shall re-submit the record and proceedings with paper book.

[N.R.BORKAR,J.]