

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

917 CRIMINAL APPLICATION NO.2641 OF 2021  
IN APEAL/569/2021

VISHAL BHIMASHANKAR JABHADE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

Ms. Mansi Ghanekar h/f. Mr. N.S. Ghanekar, Advocate for the applicant.

Ms.R.P. Gaur, APP for the respondent/State.

Mr.Akram Inamdar h/f. Mrs.Surekha Munde, Advocate (appointed) for respondent No.2.

CORAM : N.R.BORKAR, J.

DATED : 21.12.2021

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 8 of the Protection of Children from Sexual Offences Act, 2012 Act and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.5000/-, in default of payment of fine, to

suffer simple imprisonment for six months. The applicant has been further convicted for the offence punishable under section 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.5000/- and in default of payment of fine, to suffer simple imprisonment for three months. The sentences are directed to run concurrently.

03. Heard learned Counsel for the applicant and learned APP for the respondent/State.

04. The learned Counsel for the applicant submits that the victim and the applicant are relatives. It is submitted that the family of the victim was insisting the applicant to marry her and as he refused false complaint was lodged against him. It is submitted that the applicant was on bail during the trial and he did not misuse the liberty granted to him. It is further submitted that this Court has already admitted the appeal filed by the applicant and if the sentence is not

suspended, the appeal of the applicant would practically become infructuous. It is submitted that the sentence be thus suspended and the applicant be released on bail.

05. On the other hand, learned APP for the respondent/State submits that the applicant is convicted for serious offence of sexual assault. It is submitted that considering nature of offence, the sentence may not be suspended and the applicant may not be released on bail.

06. It appears that the applicant was in jail from 01.06.2020 till 13.07.2020 during trial and post conviction from 07.10.2021 till date. Admittedly, the applicant was on bail during the trial. Considering these facts and short term of sentence, I am inclined to suspend the sentence and to release the applicant on bail. In the result, 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 be released on bail on furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one surety in the like amount.
- iii) Bail before the Trial Court.
- iv) The record and proceedings be returned to the concerned Sessions Court. The concerned Sessions Court shall re-submit the record and proceedings with paper book.

**[ N . R . BORKAR , J . ]**