

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

926 CRIMINAL APPLICATION NO.2697 OF 2021
IN APEAL/577/2021

SHRIKANT VITTHAL SONAWANE
VERSUS
THE STATE OF MAHARASHTRA

Mr.C.C. Deshpande, Advocate for the applicant.

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

Mr.P.B. Jadhav, Advocate (appointed) for respondent No.2.

CORAM : N.R.BORKAR, J.

DATED : 30.11.2021

PC :-

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

02. The applicant, who was an accused before the Trial Court, has been convicted for the offence punishable under section 354-A(2) of the Indian Penal Code and sentenced to suffer rigorous imprisonment (RI) for three years and to pay fine of Rs.500/-, in default, to suffer simple imprisonment (SI) for eight days. The applicant has been further convicted for offence

punishable under section 354-B of the IPC and sentenced to suffer RI for five years and to pay fine of Rs.1000/-, in default, to suffer SI for 15 days. He has been further convicted for offence punishable under section 506 of the IPC and sentenced to suffer RI for two years and to pay fine of Rs.500/-, in default, to suffer SI for eight days. In addition to the IPC offences, the applicant has been further convicted for offence punishable under section 8 of the Protection of Children from Sexual Offences Act and sentenced to suffer RI for five years and to pay fine of Rs.1000/-, in default, to suffer SI for 15 days and for the offence punishable under section 12 of the said Act he has been sentenced to suffer RI for three years and to pay fine of Rs.500/-, in default, to suffer SI for eight days.

03. I have heard the learned Counsel for the applicant, learned APP for the respondent/State and learned Counsel for respondent No.2-complainant.

04. The learned Counsel for the applicant submits that the Trial Court failed to appreciate the evidence on record in its correct perspective and arrived at the wrong findings. It is submitted that the material witnesses i.e. mother of the victim, tuition teacher of the victim, friends of the victim, namely, Zia and Aniket have not been examined. 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 and considering the short term of sentence, it be suspended and the applicant be released on bail or else the appeal filed by the applicant for all practicable purpose would become infructuous.

05. On the other hand, learned APP for the respondent/State and learned Counsel for respondent No.2 submit that the applicant was driver of school van of the victim. It is submitted that at the relevant time the victim was aged about 14 years. It is submitted that the

applicant compelled the victim to accompany him to various places. It is submitted that on one day, the applicant had removed the dress of the victim and touched her breast. It is further submitted that the applicant took photographs of the victim and threatened to make said photographs viral, in case she dares to disclose about his acts to her family members. It is submitted that considering these facts and circumstances, the sentence may not be suspended and the applicant may not be released on bail.

06. Admittedly, the applicant was driver of the school van of the victim. The victim has stated in her evidence that one day the applicant told her to sit on front seat, when she refused, he caught hold of her hand and made her to sit on front seat. The applicant had cutter with him. With said cutter, he cut his hand and told her that if she did not talk with him, in that case he will die. The victim has further stated, on one day, the applicant had removed her dress and touched her

breast. She further stated that applicant threatened her to make his photographs with her viral in case she dares to disclose about his act to her family members. It appears that the victim during the relevant period was 14 years old, whereas the applicant was about 32 years old and was married.

07. Considering the above facts and circumstances of the case, I am not inclined to suspend the sentence and release the applicant on bail.

08. In the result, the application is rejected.

09. Hearing of the appeal is expedited.

10. Fees shall be paid to the learned Counsel appointed for respondent No.2, in accordance with the rules.

[N.R.BORKAR, J.]