

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

906 CRIMINAL APPLICATION NO. 3294 OF 2021
IN APEAL/686/2021

SACHIN TULSIRAM SHIKARE AND OTHERS
VERSUS
THE STATE OF MAHARASHTRA

Mr.R.B. Dhakane, Advocate for the applicants.
Mr.R.B. Bagul, APP for the respondent/State.

CORAM : N.R.BORKAR, J.
DATED : 23.12.2021

PC :-

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

02. The applicant No.1 came to be convicted for the offence punishable under section 354(A) (i) of the Indian Penal Code read with section 12 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1000/-, in default, to suffer simple imprisonment for seven days. Applicant Nos.2 and 3 came to be convicted

for the offence punishable under section 323 r/w 34 of the IPC and sentenced to pay fine of Rs.1000/-, in default, to suffer simple imprisonment for seven days.

03. Applicant No.2 is further convicted for the offence punishable under section 506 of the IPC and sentenced to pay fine of Rs.1000/-, in default, to suffer simple imprisonment for seven days.

04. Heard learned Counsel for the applicants and learned APP for the respondent/State.

05. The learned Counsel for the applicants submits that the Trial Court erred in convicting the present applicants. It is submitted that the applicants were on bail during the Trial and they did not misuse the liberty granted to them. It is submitted that considering short term of sentence, it be suspended and applicant No.1 be released on bail.

06. On the other hand, learned APP for the respondent/State submits that applicant No.1 is convicted for serious offence of outraging modesty of the victim. It is submitted that considering the nature of offence, the substantive sentence may not be suspended.

07. As regards applicant Nos.2 and 3, only sentence of fine is there and learned Counsel for the applicants submits that all the applicants have deposited the fine amount. Therefore, there arises no question of suspending the substantive sentence, so far as applicant Nos.2 and 3 are concerned. Admittedly, applicant No.1 was on bail during the Trial. Considering this fact and short term of sentence, I am inclined to suspend the substantive sentence and to release the applicant No.1 on bail.

08. In the result, following order is passed :-

- i. The application is allowed.
- ii. The substantive sentence imposed by the Trial Court upon applicant No.1 is suspended

during pendency of the appeal and applicant No.1 shall be released on bail on furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount.

iii. Bail before the Trial Court.

[N.R.BORKAR,J.]