

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

INTERIM APPLICATION NO. 2408 OF 2021
IN
CRIMINAL APPEAL NO. 827 OF 2021

Satish @ Bala Dattatraya Ikhe ..Applicant

v/s.

State of Maharashtra & Anr. ..Respondent

Mr. Raju D. Suryawanshi for the Applicant.
Mr. Ajay Patil, APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 11th OCTOBER, 2021.**

P.C.

1. This is an application under Section 389 of Cr.P.C. for suspension of sentence imposed by judgment dated 3.8.2021 in Special Case No.14 of 2019. By the impugned judgment, learned Judge acquitted of the offence under Section 5(j)(ii) r/w. Section 6 of the Protection of Children from Sexual Offences Act, 2012 and convicted him for the offences under Section 363, 376(2)(j) of IPC. He has been sentenced to suffer simple imprisonment for two years and to pay fine Rs.2000/- i.d. to suffer simple imprisonment for six months for the offence under Section 363 of IPC, and to suffer Rigorous imprisonment for 10 years and fine of Rs.10,000/- I.d to

suffer s.i. for one year for the offence under Section 376(2) of IPC.

2. Heard the learned Counsel for the applicant and the learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

3. The evidence of the victim indicates that she was friendly with the Applicant and that she had eloped with him and had got married to him in a temple. Thereafter she went with the Applicant to Aurangabad stayed with him in a rental room. During this period they had physical relationship with each other. The evidence on record indicates that pursuant to the complaint lodged by the father of the victim, the police had gone to Aurangabad to trace the Applicant and the victim. The victim has stated that when they learnt about the said complaint, they left the said room and stayed in another rental room at Gandhi Nagar. Prima facie, the material on record reveals that the relationship was consensual.

4. Considering the nature of the accusations and the evidence in support thereof, in my considered view, this is a fit case where there are two consecutive

defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file application seeking cancellation of bail.se to suspend the execution of sentence pending the disposal of appeal on merits, and release the Applicant on bail. Hence the order:-

- i) Substantive sentence imposed against the Applicant by judgment dated 3.8.2021 in Special Case No.14 of 2019 is suspended pending hearing of the appeal;
- ii) The Applicant is ordered to be released on bail on furnishing P.R. Bond in the sum of Rs.20,000/- (Rupees Twenty Thousand Only) with one or two solvent sureties in the like amount to the satisfaction of the trial court;
- iii) The Applicant shall not contact and or interfere with the victim and/or her family members in any manner;
- iv) The applicant shall report to the Trial Court once in two months on the day/ date specified by the Trial Court, till the Appeal is finally disposed on;
- v) The applicant shall keep the Court informed of his current address and mobile/contact numbers and/or change of residence or mobile details, if any, from time to time.

vi) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to the High Court and the prosecution would be at liberty to file application seeking cancellation of bail.

. Application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)