

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

***INTERIM APPLICATION NO. 1050 OF 2021
IN
CRIMINAL APPEAL NO. 285 OF 2021***

Dhanaji Shripati Kshirsagar	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Wilson Robi i/b Mr. Lengare Y. B. for the Applicant

Mr. P. H. Gaikwad-Patil, A.P.P for the Respondent No.1–State

None for the Respondent No. 2

PSI Mr. Rahul Satyawar Garad from NRI Police Station, is present

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 7th APRIL 2021

P.C. :

1 Learned A.P.P submits that pursuant to the order dated 24th March 2021, the Officer of the concerned Police Station has informed the respondent No. 2 of today's date. Learned A.P.P has tendered a report dated 29th March 2021. The same is taken on record. It appears that the respondent No. 2 has requested that an advocate from the Legal Aid Panel be appointed to espouse her cause..

2 Accordingly, Advocate Mr. Vivek Arote is appointed to espouse the cause of the respondent No. 2.

3 A copy of the aforesaid application is served by the learned counsel for the applicant, on the learned appointed advocate. He requests for a keep back to go through the papers. Accordingly, the matter is kept back.

On Second Call

4 Heard learned counsel for the parties.

5 By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of the appeal.

6 The applicant, vide judgment and order dated 1st March 2021, passed by the learned Special Judge (POCSO) in Special Case No. 179 of 2015, has been convicted and sentenced as under:

- for the offence punishable under Section 354 of the Indian Penal Code and under Sections 7 and 8 of the Protection of Children

from Sexual Offences Act, to suffer rigorous imprisonment for 3 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 3 months.

The fine amount, if recovered, was to be paid to the victim girl as compensation under Section 357 of the Criminal Procedure Code.

7 It is not in dispute that the applicant was on bail pending trial and even post his conviction, his sentence has been suspended. It is also not in dispute that whilst on bail, the applicant has not misused or abused the liberty granted to him. The applicant has deposited the fine amount as awarded by the trial Court. The appeal has been admitted vide order dated 24th March 2021. The sentence awarded is a short term sentence and the appeal is not likely to be heard in the immediate near future.

8 Considering the aforesaid, the application is allowed and the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his appeal, on the following terms and conditions :

ORDER

- i) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount;

ii) The applicant shall report to the trial Court, once in four months on the day/date specified by the trial Court, till his appeal is finally disposed of;

iii) The applicant shall keep the trial Court informed of his current address and mobile contact number and/or change of residence or mobile details, if any, from time to time;

iv) 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 an application seeking cancellation of applicant's bail.

9 The application is accordingly disposed of.

10 The High Court Legal Services Committee to pay the fees as per Rules, to Mr. Vivek Arote, learned appointed Advocate, who has espoused the cause of the respondent No. 2.

11 Copy of this order be forwarded to the High Court Legal Services Committee, for information and necessary action.

12 All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.