

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

***INTERIM APPLICATION NO. 1275 OF 2021
(FOR BAIL)***

***IN
CRIMINAL APPEAL NO. 376 OF 2021***

Sourabh Sunil Pagar	...Applicant
Versus	
The State of Maharashtra & Anr.	...Respondents

Mr. Rakesh Bhatkar for the Applicant

Mr. S. V. Gavand, A.P.P for the Respondent No.1–State

Ms. Shraddha Sawant, appointed Advocate for the Respondent No.2

CORAM : REVATI MOHITE DERE, J.
(THROUGH VIDEO-CONFERENCING)
FRIDAY, 7th MAY 2021

P.C. :

1 Heard learned counsel for the parties.

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

3 The applicant, vide judgment and order dated 5th April 2021 passed by the learned Extra Joint District Judge and Additional Sessions Judge, Ratnagiri, in Session Case No. 10/2019, has been convicted and sentenced as under:

- for the offences punishable under Section 376(2)(j) and (n) of the Indian Penal Code, to suffer rigorous imprisonment for 10 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 1 year;
- for the offence punishable under Sections 3 r/w 4 of the Protection of Children from Sexual Offences Act, to suffer rigorous imprisonment for 7 years and to pay fine of Rs.10,000/-, in default of payment of fine, to undergo simple imprisonment for 1 year.

Both the aforesaid sentences were directed to run concurrently.

The applicant was acquitted of the offences punishable under Sections 312 and 201 r/w 34 of the Indian Penal Code.

4 Learned counsel for the applicant submits that the applicant was on bail, pending trial. He denies that there were any relations between

the applicant, aged 19 years and victim aged 17 years 3 months, at the relevant time. Learned counsel for the applicant submits that there is no material on record i.e. doctor's evidence to show that the victim was sexually assaulted or that she underwent abortion.

5 Learned A.P.P as well as Ms. Shraddha Sawant, appointed advocate for the respondent No. 2 vehemently oppose the application. Learned appointed advocate for the respondent No. 2 submits that the applicant had physical relations with the victim girl i.e. respondent No. 2, after promising marriage to her.

6 It is not in dispute that the applicant was on bail pending trial and that whilst on bail, the applicant has not misused or abused the liberty granted to him. Having heard learned counsel for the applicant, the applicant has *prima facie* made out a case for suspension of sentence and enlargement on bail.

7 Accordingly, 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 six months on the day/date specified by the trial Court, till his appeal is finally disposed of;

(iii) The applicant shall not contact or threaten the victim, witnesses or any person concerned with the case;;

(iv) 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;

8 The application is disposed of accordingly.

9 The High Court Legal Services Committee to pay the fees as per Rules, to Ms. Shraddha Sawant, learned appointed Advocate who has espoused the cause of the respondent No. 2.

10 Copy of this order be forwarded to The High Court Legal Services Committee, Mumbai, for information and necessary action.

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

REVATI MOHITE DERE, J.