

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

***CRIMINAL APPLICATION NO. 1187 OF 2019
IN
CRIMINAL APPEAL NO. 214 OF 2019***

Rajendra Laxman Shedge ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

Mr. Niranjan Mundargi i/b Mr. Veerdhawal Deshmukh for the Applicant

Ms. Veera Shinde, A.P.P for the Respondent No.1–State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 8th MARCH 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 aforesaid appeal.

3 The applicant, vide judgment and order dated 4th January 2019, passed by learned Additional Sessions Judge, Mangaon, Raigad, in

Sessions Case No.528 of 2014, has been convicted and sentenced as under:-

- for the offence punishable under Section 376(2)(i) of the Indian Penal Code to suffer rigorous imprisonment for 10 years and to pay fine of Rs.10,000/- in default, to undergo further rigorous imprisonment for 1 year;
- for the offence punishable under Section 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, to undergo further rigorous imprisonment for 1 year;

Both the aforesaid sentences were directed to run concurrently.

4 According to the prosecutrix, when she was 15 years of age, the applicant sexually assaulted her. It appears that initially when the prosecutrix was found 9 months pregnant, when questioned, she disclosed the name of the applicant. It appears that when the DNA test was done, the result was negative, pursuant to which, the prosecutrix was asked who was responsible for the same. It appears that prosecutrix's brother was father of

the said child. The prosecutrix, during trial, stated that the applicant had come one day and had sexually assaulted her, however, no time approximately when the incident took place, has been spelt out. As far as prosecutrix's brother-Rohan is concerned, she has turned hostile and has resiled from her statement, as far as her brother Rohan is concerned. Admittedly, the DNA report shows that the prosecutrix's real brother was the father of the child.

5 The applicant was on bail pending trial and has not abused or misused the liberty granted to him. The Appeal has been admitted vide order dated 22nd January 2019.

6 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.20,000/- with one or two sureties in the like amount;

ii) The applicant shall report to the trial Court, once in three 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 bail.

7 The Application is accordingly disposed of.

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

REVATI MOHITE DERE, J.