

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 690 OF 2021

Sandesh @ Bhurya Ashok Shegokar

..vs..

State of Maharashtra, thr. P.S.O.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri A.S. Londhe, Advocate for appellant/applicant.

Shri V.A. Thakre, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATED : 18/12/2021

Heard.

2. This is an application seeking for suspension of execution of sentence passed in Special Case No. 137 of 2016. By order dated 13.11.2021, the Trial Court convicted the accused for the offence punishable under Sections 354-A(1)(i), 354-D, 504 and 506(I) of the Indian Penal Code and Section 8 of the Protection of Children From Sexual Offences Act (POCSO). The Trial Court has imposed maximum sentence to suffer rigorous imprisonment for five years along with total fine of Rs.80,000/- and also directed to recover cost of Rs.10,000/- from the applicant.

3. The respondent-State registered this application by pointing towards seriousness of the offence.

4. With the assistance of both sides, I have gone

through the impugned judgment and recorded evidence. It is a case wherein the applicant has allegedly caught hold hand of a girl aged 15 years and abused her in filthy language. The prosecution has examined in all seven witnesses. It is argued that though the alleged occurrence took place at public place, however, prosecution has not adduced any evidence of eye-witness. Perusal of victim's evidence indicates that she has specified the names of persons who have witnessed the occurrence, however, they have not been examined. It is pointed out that during cross-examination, the victim admits that the incident was occurred at the distance of 5 feet from a grocery shop. Learned Counsel for the applicant also attracted my attention to the admission that the victim admittedly did not raise shouts despite the occurrence took place on public road.

5. The applicant has made out an arguable case on merits. Generally, when the accused is sentenced for fixed term of imprisonment, unless special reasons exists sentence can be suspended. During the Trial, the applicant was on bail. The applicant has deposited total fine of Rs.80,000/- in the Trial Court. The applicant undertakes to deposit cost amount of Rs.10,000/- in the Trial Court within one week. The appeal will take its own time for final disposal. In view of that following order is passed :

(a) Application stands allowed and disposed of.

- (b) Execution of sentence passed by the Trial Court in Special Case No.137/2016 shall stand suspended till the final disposal of the Appeal.
- (c) In the meantime, the applicant/appellant be released on bail on his furnishing P.R. bond of Rs.25,000/- with one surety in the like amount.
- (d) Deposit of cost amount of Rs.10,000/- shall be condition precedent for suspension.
- (e) The Trial Court shall ensure deposit of cost amount before issuance of release warrant.

JUDGE

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