

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**918 CRIMINAL APPLICATION NO.3493 OF 2022
IN APEAL/770/2022 WITH APEAL/770/2022**

**VISHAL SHARAD SHELKE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

Mr.S.J. Salunke, Advocate for the applicant.
Mr.S.W. Munde, APP for the respondent/State.
Mr.U.M. Mote, Advocate for respondent No.2.

**CORAM : KISHORE C. SANT, J.
DATED : 06.12.2022**

PC :-

01. Heard learned Advocate for the applicant. Learned Advocate for the applicant has taken this Court through the depositions of the witnesses recorded before the Court. It is seen that even the victim and all her relatives have not supported the case of the prosecution. The photographs which were allegedly taken by the accused with the victim are also not accepted by the witnesses except PW-2, who happens to be uncle of the victim. He accepted one of the photographs out of three is of the victim and the accused. The learned Court below had called Scientific Expert as Court witness to examine in the Court, who supported the case of the prosecution stating that the photographs which are allegedly taken by the accused by his mobile with the

victim in objectionable position are taken from same mobile and the photographs are of the same person.

02. Though the victim herself has become hostile, however, still she has accepted signature on the FIR having made in the police station. Her statement under section 164 of the Cr.P.C. was also recorded which the prosecution has brought on record. It is seen that the victim and the accused are cousins and they are closely related. It clearly appears that the witnesses have turned hostile for some reason and have not supported the case of the prosecution for some other reason. Learned Trial Court has found that the evidence of the Court witness to the extent he identified the photographs is sufficient to prove guilt of the accused. Further it is observed that the seizure panchanama of the mobile is not challenged by the accused and thus the evidence of the Scientific Expert can be relied upon. This Court finds that the learned Trial Court has taken sufficient care and has convicted the accused and at this prima facie stage, the reasoning cannot be lightly discarded.

03. It is submitted by the learned Advocate for the applicant that during the Trial, the applicant was on bail. He has also paid fine of

Rs.20,000/- in the Court below. This Court finds that it would not be sufficient reason to allow the application seeking bail and suspension of sentence. The conviction is for ten years, out of that period he has already undergone only ten months.

04. Hence, this Court finds that there is no merit in the application, therefore, same deserves to be dismissed. The application is, thus, dismissed.

05. Hearing of the appeal is expedited.

[KISHORE C. SANT, J.]