

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.47 OF 2022
IN
CRIMINAL APPEAL NO.7 OF 2022

Dattatraya Kisan Mane

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.R.C.Barge, Advocate for applicant.

Mrs.S.V.Sonawane, APP, for State.

Mr.Kartik Garg, Advocate for respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATE : 16th March 2022

PC :

1. This is an application for suspension of sentence and grant of bail during pendency of Criminal Appeal No.7 of 2022. The applicant has been convicted for offence under Section 8 of Protection of Children from Sexual Offences Act, 2012 and sentenced to imprisonment for three years.

2. The case of prosecution is that the victim was subjected to molestation by accused. The FIR was registered on the next day. The accused was arrested. On completion of investigation charge sheet was filed.

3. Learned counsel for applicant submitted that the applicant was on bail during trial. He has not misused the facility of bail. He has been taken in custody on the date of conviction judgment. Since last five months he is in custody. The applicant has been falsely

implicated in the case on account of political rivalry. The victim has admitted that accused is her uncle. There are two political groups in locality. Under garb that the applicant was supporting opposite group, he has been falsely implicated in this case. The victim was tutored by her parents.

4. Learned APP and learned counsel for respondent no.2 submitted that there is no reason to disbelieve the version of victim. The defense has not been able to discard evidence of victim in the cross-examination. There is no motive to falsely implicate the applicant. The record indicate that applicant was not available for some time and he was required to be produced before the Court. The victim has fear against applicant. The Trial Court ought to have convicted applicant more. Considering the fact that sexual assault was in the form of aggravated sexual assault, the applicant could have been sentenced to suffer imprisonment for five years.

5. The sentence is of short term. The applicant was on bail. Since last five months he is in custody. Several defenses are urged by the applicant in the Trial Court including defense that he has been falsely implicated on account of politics in the village. There is no adverse report on record that applicant has misused the facility of bail by tampering the evidence. Learned advocate for respondent no.2 has expressed fear that applicant would reside in the same vicinity where the victim reside and may create fear in the mind of victim.

6. Considering the facts, case for suspending the sentence and grant of bail is made out. Hence, I pass following order :

ORDER

- (i) Interim application is allowed and disposed of;
- (ii) The sentence of imprisonment imposed by judgment and order dated 26th October 2021 by Special Judge, Satara in Special (Child) Case No.87 of 2017 is suspended and the applicant is directed to be released on bail on executing PR bond in the sum of Rs.20,000/- with one or more sureties in the like amount;
- (iii) The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of eight weeks in lieu of sureties;
- (iv) The applicant shall not visit the vicinity where the residence of the victim is located, till final disposal of Criminal Appeal;
- (v) The applicant shall not contact the victim and cause harassment in any manner;
- (vi) The applicant shall attend Trial Court once in six months on First Saturday of the month till disposal of the Criminal Appeal;
- (vii) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;
- (viii) In the event of default committed by the applicant in attending the Trial Court, the prosecution will be at liberty to prefer application for cancellation of bail.

(PRAKASH D. NAIK, J.)

MST