

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.151 OF 2022
IN
CRIMINAL APPEAL NO.40 OF 2022

Amol Hindurao Dhaygude	Applicant
versus	
The State of Maharashtra and another	Respondents

Mr.Rahul K. Dhaygude, Advocate for applicant.

Ms.Devyani Kulkarni, Advocate for respondent no.2.

Mr.S.H.Yadav, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th February 2022

PC :

1. The applicant is seeking suspension of conviction and grant of bail pending Criminal Appeal No.40 of 2022.
2. The applicant has been convicted vide judgment and order dated 29th December 2021 passed by Special Judge, Satara in Special Case No.18 of 2018 convicting him for the offence punishable under Section 354A, 354D of Indian Penal Code r/w Sections 11, 12 of Protection of Children from Sexual Offences Act. The applicant has been sentenced to undergo rigorous imprisonment for three years and fine of Rs.3,000/-.
3. The case of prosecution is that the alleged incident had occurred on 1st December 2017 and 2nd December 2017. In the first

incident the accused had allegedly expressed that he is in love with victim. In the second incident the accused had outraged modesty of the victim when she was washing utensils at water tap in front of her house. Accused was taking bath and exhibited his private part.

4. Learned counsel for applicant submitted that applicant has been falsely implicated in this case. There was quarrel between both the sides. The complainant is habitual in filing complaints against several persons. The applicant and victim are related to each other. The applicant was on bail during trial. There are no instances of misuse of facility of bail. The sentence is of short term. The appeal would not come up for hearing immediately. For want of suspension of sentence of imprisonment, the appeal would become infructuous.

5. Learned APP submitted that the applicant was involved in commission of two incidents which were occurred on 1st December 2017 and 2nd December 2017. The applicant is involved in harassing the victim. The incidents are of serious nature.

6. Learned counsel for respondent no.2 submitted that there is sufficient evidence to convict the applicant. No case is made out for suspension of sentence. The applicant is involved in sexual harassment and outraging modesty. Hence this appeal be rejected.

7. The applicant was on bail during trial. There is no adverse report about misuse of facility of bail. The sentence is of three years. Arguable questions are raised in the appeal. The sentence of imprisonment is of short term. Hence case for suspension of sentence is made out.

ORDER

- (i) Interim application is allowed and disposed of;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 29th December 2021 passed by Extra Joint District Judge and Additional Sessions Judge, Satara in Special (Child) Case No.18 of 2018 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 attend Trial Court once in six months on First Saturday of the month till disposal of the Criminal Appeal;
- (v) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;
- (vi) 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;
- (vii) The applicant shall not approach the victim and shall not cause any harassment to her in any manner;
- (viii) The applicant shall not enter the vicinity of residence of victim.

(PRAKASH D. NAIK, J.)

MST