

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 645 OF 2019
IN
CRIMINAL APPEAL NO. 1362 OF 2019

Anand Waman Dhuri ... Appellant/Applicant
V/s.

The State of Maharashtra and Anr. ... Respondents

Mr. Sanjeev Kadam a/w Ms. Varsha M. Thorat I.by Mr. Prashant Raul
advocate for the Appellant/Applicant.

Ms. P.N. Dabholkar- APP for the respondent-State.

Mr. Vrushabh M. Savla advocate (appointed) for the respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATED : MARCH 15, 2022.

P.C. :

. This is an application for suspension of sentence and grant
of bail pending Criminal Appeal No. 1362 of 2019.

2. The applicant has been convicted by judgment and order
dated 5th October 2019 for the offence punishable under section 354
and 452 of Indian Penal Code ('IPC', for short) and section 8 of the
Protection of Children from Sexual Offences Act, 2012. He has been
acquitted for the offence punishable under section 12 of the Protection
of Children from Sexual Offences Act, 2012. The maximum sentence to
suffer Rigorous Imprisonment for three years.

3. The prosecution case is that on the date of incident the accused had visited the house of the victim. She was watching television. Accused also watched the television and while leaving he came from behind the victim and touched her inappropriately.

4. The learned counsel for the applicant submits that the applicant was on bail during the trial. This Court by order dated 18th October 2019 continued the order of suspension of sentence passed by the trial Court till the next date. Interim relief granted by this Court is in operation from 18th October 2019. While on bail the applicant has not misused facility of the Bail. The alleged act, if any, was unintentional.

5. The evidence of the victim disclose that, the accused had returned to the house of the victim and after the incident seating outside the house. On questioning it was informed that touch was unintentional.

6. Learned APP and learned counsel for the respondent no.2 submitted that the offence is clearly made out. The evidence of the victim disclose that the accused had outraged victims modesty. The evidence of victim is consistent.

7. As stated above, applicant was on bail during the trial. The sentence of imprisonment is of short term. The sentence was suspended by the trial Court on the date of conviction. This Court has continued the order passed by the trial Court granting suspension of

sentence and the said order is still in operation.

8. The age of the victim was about 17 years at the time of incident. She also deposed that when her mother was in the house, the accused again visited the house and sat outside the house. He has told the mother of victim that the act was unintentional.

9. Considering the fact that the sentence is short term. There is no adverse report about misuse of bail during trial and relief prayed in this application can be granted. Hence, the following order :-

ORDER

- i. Interim Application No. 645 of 2019 is allowed and disposed of.
- ii. The sentence of imprisonment imposed vide judgment and order dated 5th October 2019 passed by learned designated Judge, Protection of Children from Sexual Offences Act, 2012, Sindhudurg-Oras in Special Case No. 23 of 2019, old Special Case No. 22 of 2018 is suspended and 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.20000/- for a period of ten 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 cause any harassment to the victim.

(PRAKASH D. NAIK, J)