

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.453 OF 2022
IN
CRIMINAL APPEAL NO.120 OF 2022

Sadanand Dattarao Hapse

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.Shailesh S. Kharat, Advocate for applicant.

Mr.Aditya Bapat, Advocate for respondent no.2.

Mr.A.R.Kapadnis, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th April 2022

PC :

1. This is an application for suspension of sentence and grant of bail. The applicant is convicted for offence under Section 376(2)(i) (1) of Indian Penal Code and for offences under Sections 4,6,10 and 12 of Protection of Children from Sexual Offences Act, 2012. He is sentenced to suffer imprisonment for 12 years and pay fine of Rs.20,000/- for conviction u/s.376 of IPC and for offence u/s.10 of POCSO Act he is sentenced to suffer imprisonment for 6 years and fine of Rs.10,000/-. He is further sentenced to suffer imprisonment for 3 years for the conviction u/s.12 of POCSO Act. All the substantive sentences were to run concurrently.

2. The case of prosecution is that mother of victim found the cell phone in the school bag of the victim on 18th November 2016. On enquiry with the victim she disclosed that cell phone was provided by accused to her and she was subjected to sexual assault on several

occasions. After getting this information from the victim the complainant consulted her family members and lodged FIR on 23rd November 2016.

3. Learned counsel for applicant submitted that applicant is in custody since last about 5 years. There are discrepancies in evidence. There is delay in lodging the FIR. There is no explanation for delay. Even after mother of the victim received information, for a period of 4 days thereafter she did not lodge the FIR.

4. Learned APP and learned advocate for respondent no.2 opposed the application for suspension of sentence and grant of bail. It is submitted that there is sufficient evidence against applicant. The victim was aged around 12 years at the time of incident. Considering the age of victim, the delay in lodging the complaint is not fatal to prosecution case. After learning about the incident, mother had approached Police within reasonable time and the FIR was registered. Age of the victim was proved. She was minor. Accused was aged about 28 years at the time of incident.

5. On perusal of the evidence recorded by Trial Court it is apparent that prima facie there is sufficient evidence against applicant. The version of victim girl and other witnesses supports the case of prosecution. Medical evidence refers to old tears. In the light of nature of evidence, no case is made out for suspension of sentence and grant of bail. However, considering the fact that appellant is in custody from 2016, hearing of the appeal can be expedited.

ORDER

- (i) Interim Application No.453 of 2022 is rejected;
- (ii) Hearing of Criminal Appeal No.120 of 2022 is expedited;
- (iii) Preparation of paper book is expedited. As soon as paper book is ready, appellant is at liberty to move application for fixing the appeal for early hearing.

(PRAKASH D. NAIK, J.)

MST