

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.975 OF 2022
IN
CRIMINAL APPEAL NO.295 OF 2022

Nikhil Kisa Deshmukh

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.Tushar Sonawane, Advocate for applicant.

Mr.Ajinkya Udane, Advocate for respondentno.2.

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

CORAM : PRAKASH D. NAIK, J.

DATE : 4th May 2022

PC :

1. This is an application for suspension of sentence. The applicant has been convicted for offence u/s.7 punishable u/s.8 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') and sentenced to suffer imprisonment for 3 years. He is further convicted for offence u/s.506 of IPC and sentenced to suffer imprisonment for 1 year.

2. The case of prosecution is that victim and accused are the residents of same area. The victim was around 16 years of age at the time of incident. On the date of incident he accused followed her and proposed her for love. He also touched her neck and her back. Accused then threatened her of dire consequences. Complaint was lodged.

3. The maximum sentence imposed by the Trial Court is of 3

years. The applicant was on bail during trial. There is no adverse report of misuse of facility of bail. It appears that victim is married in her life.

4. Learned APP submitted that specific overt act has been attributed to the applicant which is evident from the deposition of victim girl. Learned advocate for respondent no.2 submitted that overt act has been attributed to the applicant. The victim was touched on her neck and back which shows the intention of accused. The victim was threatened that she would be killed if she disclose the incident.

5. The sentence of imprisonment had been suspended by the Trial Court on the date of conviction for a stipulated period. The suspension was continued by way of interim relief vide order dated 31st March 2022. The appeal may not reach for final hearing in near future. The sentence is of short term and sentence can be suspended.

ORDER

- (i) Interim Application is allowed and disposed of;
- (ii) Interim order dated 31st March 2021 is confirmed;
- (iii) During pendency of Criminal Appeal No.295 of 2022, the sentence of imprisonment imposed vide judgment and order dated 8th March 2022 passed by learned Special Judge, Madgaon, District Raigad in Special Case No.69 of 2020 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;
- (iv) The applicant is permitted to furnish cash bail in the sum of Rs.20,000/- for a period of eight weeks in lieu of surety;

- (v) The applicant shall not harass to the victim girl and her family members;
- (vi) The applicant shall not contact victim girl in any manner;
- (vii) The applicant shall attend Trial Court once in six months on First Saturday of the month till disposal of the Criminal Appeal;
- (viii) In the event there are two consecutive defaults in attending the Trial Court, the Trial Court shall submit report to this Court;
- (ix) 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.)