

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1106 OF 2022
IN
CRIMINAL APPEAL NO.340 OF 2022

Aniket Anil Wajekar

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.Nitin Sejpai with Ms.Akshata Desai, Advocate for applicant.

Mr.Krunal Thakkar, Advocate for respondent no.2.

Mr.S.V.Gavand, APP, for State.

PSI Omprakash B. Kawale, Alibag Police Station, present.

Shruti Rajaram Bansode, victim, present.

Yashodhara Shankar Jadhav, mother of victim, present.

CORAM : PRAKASH D. NAIK, J.

DATE : 25th April 2022

PC :

1. This is an application for suspension of sentence and grant of bail during pendency of Criminal Appeal No.340 of 2022.

2. The applicant has been convicted for the offence under Section 376(2)(j)(n) of Indian Penal Code and under Section 3 punishable u/s.4, Section 5(i) punishable u/s.6, Section 7 punishable u/s.8 and Section 11(i) punishable under Section 12 of Protection of Children from Sexual Offences Act, 2012 and under Sections 3(1)(w)(i)(ii), 3(2)(v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. The applicant has been sentenced to suffer imprisonment for ten years and fine of Rs.25,000/-.

3. The case of prosecution is that the victim was around 17 years of age at the time of lodging the FIR. The accused got acquainted

with the victim on Instagram. Both of them became friends. They met each other and subsequently went to Alibag. The accused told the victim girl that he is in love with her. He will perform marriage with her. There was physical relationship between them. Thereafter they stayed at Panvel and under the pretext of marriage accused had sexual intercourse with her. Even thereafter their relationship continued. Since marriage could not be performed, the FIR was registered. The victim had attained majority and she is aged around 19 years.

4. Learned advocate for applicant submitted that relationship between accused and victim was consensual in nature. On account of some difficulties the marriage could not be performed. The accused and victim have decided to perform marriage. The parents of applicant are supporting them. The applicant was on bail during trial. He has not misused the facility. The applicant has tendered affidavit affirmed from jail. The applicant's mother and father have tendered affidavits in support of this application.

5. The advocate for respondent no.2 submitted that relationship was of consensual nature. The victim is aged around 19 years now. She is willing to perform marriage with appellant. The appellant and victim have decided to perform marriage. The victim and her mother are present in Court. The victim and her mother have filed affidavits and they have confirmed the contents thereof.

6. The victim-complainant has no objection for suspending sentence and granting bail to the applicant. All the affidavits are taken on record.

7. Considering the fact that victim and accused-applicant were in relationship, which apparently appear to be of consensual nature and the fact that applicant was on bail during trial, sentence of imprisonment can be suspended.

ORDER

- (i) Interim Application is allowed and disposed of;
- (ii) During pendency of Criminal Appeal No.340 of 2022, the sentence of imprisonment imposed vide judgment and order dated 28th February 2022 passed by Extra Joint District and Additional Sessions Judge, Raigad-Alibag in Special (POCSO) Case No.50 of 2021 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.20,000/- 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.

(PRAKASH D. NAIK, J.)

MST