

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.26 OF 2022
IN
CRIMINAL APPEAL NO.70 OF 2022

Deepak Kaluram Randive

Applicant

versus

The State of Maharashtra and another

Respondents

Mr.Vikas B. Shivarkar, Advocate for applicant.

Mr.H.J.Dedhia, APP for State.

Mr.Prosper D'Souza, Advocate for respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATE : 24th February 2022

PC :

1. This is an application for suspension of sentence and grant of bail during pendency of Criminal Appeal No.70 of 2022.

2. The applicant has been convicted for the offences under Sections 354, 354A(1) of IPC and Section 8 of Protection of Children from Sexual Offences Act vide judgment and order dated 1st October 2021. He has been sentenced to suffer rigorous imprisonment for three years and six months for the offence under Section 8 of POCSO Act. No separate sentences are imposed for offences under Sections 354 and 354A(1) of IPC.

3. The alleged incident had occurred on 1st December 2017. The accused had allegedly entered into the house of victim girl aged about 16 years at the time of incident and caught her hand, pulled her, tried to hug her and kiss her on cheek. The FIR was registered, investigation concluded and charge sheet was filed.

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4. Learned counsel for applicant has submitted that the applicant is in custody for a period of about four and half months. The sentence is of short term. The appeal would not be heard within short span of time. If the sentence is not suspended, the appeal would become infructuous. There are no criminal antecedents against applicant. He was on bail during trial. There is no misuse of facility of bail. The evidence of PW-1 discloses that after the incident, the applicant is not residing in the vicinity of complainant.

5. Learned APP submits that evidence of victim proves the charge against applicant. There are no discrepancies in the evidence.

6. Learned counsel for respondent no.2/victim submits that the offence is of serious nature. The victim was minor at the time of incident. The applicant had entered into the premises of victim and committed the alleged act. No ground is made out for suspension of sentence. The charge has been proved by adducing evidence. The accused is residing in the same vicinity.

7. the applicant was on bail during trial. There is no adverse report about misuse of bail facility. The sentence is of short term. Evidence of PW-1 disclosed that after the incident the applicant is not residing in the premises where the complainant-victim resides.

8. Considering the factual aspects stated above and the fact that sentence is of short term, this application can be allowed. Hence, I pass following order :

ORDER

- (i) Interim Application is allowed and disposed of;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 1st October 2021 passed by Additional Sessions Judge, Pune in Special (Child) Case No.14 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.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;
- (vii) The applicant shall not approach the victim and shall stay away from her.

(PRAKASH D. NAIK, J.)

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