

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 118/2022

IN

CRIMINAL APPEAL NO. 84/2022

Rahul Gautam Lahase

Vs.

The State of Maharashtra, through P.S.O., P.S. Anjangaon Surji, Amravati and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri Shahrukh Shah, Advocate for applicant
Ms T.H. Udeshi, A.P.P for respondent No.1-State
Ms S.P. Deshpande, Advocate for respondent No.2

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 30/09/2022

The present application is filed for suspension of sentence and grant of bail. The appeal is preferred challenging the judgment and order of conviction dated 22/11/2021 passed in Special Case No. 11/2018, whereby the learned Additional Sessions Judge – 2, Achalpur was pleased to convict the applicant/appellant for the offences punishable under Section 376 of the Indian Penal Code and sentenced him to suffer rigorous imprisonment for ten years and to pay fine of Rs.10,000/-, in default to suffer rigorous imprisonment for three months. The appellant is also convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO) and sentenced to suffer rigorous imprisonment for two years and to pay

fine of Rs.2000/-, in default to suffer rigorous imprisonment for one month. Applicant also convicted for the offence punishable under Section 6 of the Information Technology Act, 2000 and he sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.2000/-, in default to suffer rigorous imprisonment for one month.

2. It is claimed that the applicant is having good case on merit and there is every possibility of his succeeding in the appeal. It is further submitted that after going through the evidence of victim, no case is made out under Section 376 of the Indian Penal Code and it appears that victim has a consent for sexual relationship. It is submitted that throughout trial, the applicant was on bail and he has not transgressed any condition which is imposed upon him.

3. The Additional Public Prosecutor Ms Udeshi vehemently opposed the application and drawn my attention to the paragraph No.5 of the deposition of victim. The learned Additional Public Prosecutor therefore, requests for expediting the appeal instead of suspending the sentence.

4. Ms Smita Deshpande, learned Counsel for respondent No.2 – victim, also vehemently opposed the application.

5. After going through the copies of depositions placed on record, I do not see any reason to suspend the substantive sentence. Prima facie it appears that, the age of the victim at the time of incident was 16 years, therefore, there is no question of having consent. The accused had not only established a sexual relationship with the victim but also video recorded the victim's obscene pictures and threatened to circulate the same and appear to be sent to the victim's would-be husband. There is evidence supporting prosecution case. However, in facts and circumstances, it would be appropriate to fix the matter for final hearing in the week commencing from 09/11/2022, by that time appellant to file private paper book.

6. The application is rejected.

(SMT. M.S. JAWALKAR, J.)

Jayashree..