

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1077 OF 2022
IN
CRIMINAL APPEAL NO.201 OF 2022

Ashok Bhagwanrao Balatkaar

...Applicant

Versus

The State Of Maharashtra And Another

...Respondents

Mr. S.J. Salunke, Advocate for the applicant.

Mrs. Renuka Ghule, appointed Advocate for respondent No. 2.

Mr. S.W. Munde, APP for respondent-State.

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[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 10th JANUARY, 2023

ORDER :

1. The applicant is convicted for offences punishable under section 376-AB of Indian Penal Code, 1860 (for short 'IPC') and sentenced to suffer rigorous imprisonment for 20 years and to pay fine of Rs. 1,000/-, under section 363 of IPC and sentenced to suffer rigorous imprisonment of 7 years and to pay fine of Rs. 1,000/-, under section 4 of Protection of Children From Sexual Offences Act, 2012 (for short 'POCSO Act'), however, sentence is not awarded in view of Section 42 of the POCSO Act, and as applicant was sentenced under section 376-AB of IPC and under section 8 of POCSO Act, sentenced to suffer

rigorous imprisonment of five years and to pay fine of Rs. 1,000/-. By this application, applicant seeks bail during the pendency of appeal.

2. Heard the learned advocate for the applicant, learned Additional Public Prosecutor for respondent No. 1 and learned advocate for respondent No. 2.

3. Learned advocate for the applicant strenuously submits that the evidence on record is not sufficient to warrant conviction of applicant under section 376-AB of IPC. There is no corroboration to the allegations of rape. Medical evidence does not support the prosecution case. He invites attention of this Court to the deposition of victim and her father, and submits that conviction awarded to the applicant is unsustainable. Further submission is that the applicant was on bail during trial and he has not misused the facility and therefore, he may be released on bail during pendency of appeal.

4. Learned Additional Public Prosecutor and learned advocate for respondent No. 2 opposed the bail application contending that after appreciation of evidence the Sessions

Court has rightly convicted the applicant and since sentence of the applicant is of 20 years, he is not entitled for bail during pendency of appeal.

5. Perusal of record indicates that, prima facie, there is sufficient material on record to warrant conviction of the applicant. At this stage, appreciation of evidence is not necessary. Since, the applicant is sentenced to suffer 20 years rigorous imprisonment, I am not inclined to grant bail to the applicant. The application is therefore dismissed.

6. Fees of learned advocate appointed for respondent No. 2 is quantified at Rs. 2500/-. Legal Aid Services Authority (Sub Committee), Aurangabad shall pay the said fees within four weeks from today.

[NITIN B. SURYAWANSHI, J.]