

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3099 OF 2022
IN
CRIMINAL APPEAL NO. 673 OF 2022

Balasaheb @ Khandu Dhananjay Walse ...Applicant

Versus

The State Of Maharashtra And Another ...Respondents

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

Mrs. R.P. Gour, APP for respondent No. 1.

Mr. Z.H. Farroqui, Appointed advocate for respondent No. 2.

.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 12th JANUARY, 2023

ORDER :

1. The applicant is convicted for offence punishable under section 376(2)(i) of the Indian Penal Code and under section 6 of the Protection of Children from Sexual Offences Act, 2012 and is sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs. 1,00,000/-.

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

3. The applicant seeks bail during pendency of appeal on the ground there is no sufficient evidence on record to prove the age of victim. Medical evidence is not corroborating the allegations of prosecution. Learned advocate for the applicant submits that the applicant was on bail during trial and he has not misused the facility of bail. The applicant therefore may be released on bail.

4. Learned Additional Public Prosecutor and learned advocate for respondent No. 2 opposed the bail application contending that the Trial Court has properly appreciated the evidence and convicted the applicant on the basis of testimony of victim. The victim has categorically deposed that the applicant has forcibly kept physical relations with her. According to them age of the victim is also proved and medical evidence corroborates the version of victim.

5. I have perused the notes of evidence and the judgment of Special Court. Prima facie, there appears sufficient material to sustain conviction of applicant. At this stage, detail appreciation of evidence is not possible. In view of evidence on record and reasons recorded by the Special Court, this is not a fit

case to grant bail to the applicant. The application is therefore dismissed.

6 Learned advocate Shri. Z.H. Farroqui, appointed to represent respondent to be paid fees Rs. 3000/- to be paid by Legal Aid Services Authority (Sub Committee), Aurangabad, within four weeks from today.

[NITIN B. SURYAWANSHI, J.]