

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1087 OF 2023
IN
CRIMINAL APPEAL NO.332 OF 2023

Dattatraya Ramchandra Jadhav	Applicant
versus	
The State of Maharashtra and another	Respondents

Mr.Shubham Sane i/by Mr.Priyal G. Sarda, Advocate for Applicant.
Ms.Priyanka Chavan, Advocate for Respondent no.2.
Ms.PN.Dabolkar, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 20th July 2023

PC :

1. This is an application for suspension of sentence and grant of bail. Applicant is convicted for the offence u/s.506 of Indian Penal code and sentenced to suffer imprisonment of two years. He is further sentenced for the offence u/s.8 of Protection of Children from Sexual Offences Act and sentenced to suffer imprisonment for three years.
2. Learned advocate for Applicant submitted that applicant was on bail during trial. The sentence of imprisonment was suspended on the date of conviction. The sentence is of short term. One of the victim has turned hostile. Evidence of other victims suffers from omissions and contradictions. Applicant was on bail during trial and applicant has not misused the facility of bail.
3. Learned APP submitted that Applicant has been convicted on the basis of evidence by Trial Court. Although he was charged for the offence u/s.376 of IPC, the Trial Court has convicted him for the aforesaid offence.

4. Learned advocate for Respondent no.2 submitted that there is sufficient evidence to convict the Applicant. Although one of the witness has turned hostile, there are circumstances to show involvement of Applicant in the crime. Medical evidence supports the prosecution case. Evidence of medical officer needs to be considered.

5. The maximum sentence imposed by the Trial Court is of three years. Applicant was on bail during trial. It is not reported that he has misused the facility of bail. The sentence is of short term. The appeal may not reach for hearing immediately. Appeal has been preferred challenging judgment of conviction on the basis of certain contradictions and omission reflected in the evidence of victim. Considering the circumstances, case for suspension of sentence and grant of bail is made out.

ORDER

- (i) Interim Application is allowed and disposed off;
- (ii) The substantive sentence of imprisonment imposed vide judgment and order date 23rd January 2023 by Additional Sessions Judge (Special POCSO), Solapur, in Sessions Case No.158 of 2017, is suspended during pendency of Criminal Appeal, and applicant is directed to be released on bail on same bail as directed by Trial Court with fresh bail bonds;
- (iii) Applicant shall not cause any harassment to the victim.

(PRAKASH D. NAIK, J.)