

rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.3979 OF 2023
in
CRIMINAL APPEAL NO.1196 OF 2023

Yasin Shoukat Kurundwas	]	..	Applicant
vs.			
State of Maharashtra & Anr.	]	..	Respondents

Mr.Amit Icham, for the Applicant.
Mr.S.R. Agarkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 1st November, 2023.

P.C.

1] The present Interim Application seek suspension of sentence imposed on the Appellant vide Judgment dated 08.09.2023, delivered by the Extra Joint District Judge & Additional Sessions Judge, Sangli in Special Case No.130/2020.

On being convicted, the Applicant is sentenced to suffer Rigorous Imprisonment for 1 year and to pay fine of Rs.12,500/- , in default, to suffer Rigorous Imprisonment for 2 months. He is also punished under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer Rigorous Imprisonment for one year and to pay

fine of Rs.12,500/- in default to suffer further Rigorous Imprisonment for two months.

The substantive sentences are directed to run concurrently.

2] The case of the prosecution placed before the Sessions court as narrated by the victim girl (PW 2) is, the accused person who was residing in her neighbourhood and with whom she was acquainted, followed her one fine day in the morning and also met her in the evening and gave his mobile number and asked her to make a call. On the next day, he again followed her and questioned her as to why she did not make a call. Thereafter, on a particular day, when her school re-opened, he stalked her to the school, and it is her specific version that he used to sit in the fair price shop near the school and call her by gestures.

When she narrated this incident to her parents, a complaint was lodged and the offence came to be registered.

3] The learned counsel for the Applicant, has invited my attention to the cross-examination of the victim girl where she admit that the statement given by her, that the accused was following her to school, was not mentioned in her statement given to the police.

The victim has been extensively cross-examined and suggestion was given to her that she was having an affair with the accused and she intended to elope with him on attaining majority, but she denied the suggestion.

4] The Accused examined one of the relative of the victim girl, in his defence and through him an attempt is made to bring on record the relationship shared by the victim with the accused, as an affair. The effect of examination of this witness and the overall effect of the denial of the victim girl about the suggestion given in the cross-examination, will be a matter which will have to be appreciated, when the Appeal is heard.

Since the Appeal is already admitted and the sentence imposed upon the Applicant is of fixed term, in the wake of the decision of the Apex Court in the case of *Bhagwan Rama Shinde Gosai & Ors. vs. State of Gujarat*, (1999) 4 SCC 421, I deem it appropriate to pass the following order :

ORDER

- a] Interim Application is allowed.
- b] The sentence imposed upon the Applicant vide the impugned Judgment dated 08.09.2023 in Special Case No.130/2020, is hereby suspended during the pendency of the Appeal.

c] The Applicant Yasin Shoukat Kurudwad shall be continued on the same bond.

d) Upon release, the Applicants shall furnish his contact number and permanent residential address to the Investigating Officer and shall keep him updated in case of any change.

[BHARATI DANGRE, J]