



IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.919 OF 2022

IN

CRIMINAL APPEAL NO.271 OF 2022

Namdev Vithoba Jadhav

...Applicant

vs.

The State of Maharashtra & Anr.

...Respondents

.....

Mr. Shantanu Phanse, for the Applicant.

Mrs. M.H. Mhatre, APP, for Respondent State.

Ms. Prachi Tatake, Appointed Advocate for Respondent No.2.

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CORAM : NITIN B. SURYAWANSHI, J.

DATED : 3rd NOVEMBER 2023

P. C. :

This is an application for suspension of sentence and grant of bail during the pendency of criminal appeal preferred by Applicant challenging the judgment of conviction.

2. Applicant is convicted by learned Additional Sessions Judge and Special Judge (POCSO Act), Islampur, Sangli, in Special Case No.04 of 2019, C.R. No. 216 of 2018 with Shirala Police Station, District Sangli, for the offence punishable under Section 376(AB) and

offences punishable under Sections 6 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and thereby sentenced to suffer rigorous imprisonment for 21 (twenty-one) years and to pay fine of Rs.1,500/- in default in payment of fine to undergo simple imprisonment for one month vide Section 235(2) of the Code of Criminal Procedure.

3. Heard learned Advocate for Applicant/Appellant, learned APP for Respondent-State and learned Advocate for Respondent No.2.

4. Learned Advocate for Applicant argued on the merits of the conviction by referring to the evidence of prosecution witnesses and submitted that evidence is unreliable and there are contradictions, omissions and improvements and, therefore, the same is unreliable. By referring to the evidence of Victim-PW-7, medical evidence of PW-9, learned Advocate for Applicant submitted that prosecution has failed to prove charge against the Applicant/Accused.

5. Learned APP and learned Advocate for Respondent No.2, on the other hand, supported the impugned judgment of conviction. They submit that evidence of victim is itself sufficient to sustain the conviction. According to them, Applicant/Accused tried to change defence from time to time.

6. I have given careful consideration to the rival submissions

by learned Counsel. Perused the evidence of prosecution witnesses and the impugned judgment. I am of the prima facie opinion that findings recorded by the trial court are sustainable, as there is sufficient evidence that Applicant has committed the offence for which he is convicted. In this view of the matter, I do not wish to elaborate the reasons in this order, as the appeal filed by Applicant is pending for hearing and final disposal. No case for bail pending appeal is made out. In the result, the following order:

- (i) Interim application stands rejected.
- (ii) Hearing of criminal appeal is expedited.

[NITIN B. SURYAWANSHI, J.]