

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.950 OF 2023
IN
CRIMINAL APPEAL NO.279 OF 2023

Anilkumar Chandeshwar Das @ Tarzan	Applicant
versus	
The State of Maharashtra and another	Respondents

Mr.Ganesh Gupta with Jamal A. Khan, Sahil Ghorpade, Sanket Kankate for applicant.

Ms.Anamika Malhotra, APP, for State.

Mr.Ratnesh M Dube, Advocate for Respondent no.2.

CORAM : PRAKASH D. NAIK, J.

DATE : 15th June 2023

PC :

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

2. Applicant has been convicted for offence u/s.8 of Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer imprisonment for three years. Applicant was on bail during trial. The sentence of imprisonment was suspended for temporary period u/s.389 of Cr.PC on the date of conviction.

3. The prosecution case is that the victim and accused were having love affair. The victim girl was eloped with the accused and they were found at Katni, Madhya Pradesh. Statement of victim girl was recorded u/s.164 of Cr.PC wherein she had stated that she had accompanied the applicant voluntarily.

4. Learned advocate for applicant submitted that sentence is of short term. Applicant was on bail during trial. There are discrepancies in evidence.

5. Learned APP and learned advocate for respondent no.2 submitted that victim was minor at the time of incident. She was aged around 13 years. The consent, if any, is immaterial.

6. Considering the nature of evidence, the quantum of imprisonment awarded by the Trial Court and the fact that applicant was on bail during trial, 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 dated 7th February 2023 in POCSO Special Case No.41 of 2021 by Special Judge under POCSO Act, Greater Mumbai, is suspended, and applicant is directed to be released on same bail as directed by Trial Court with fresh bail bonds.

(PRAKASH D. NAIK, J.)

MST