

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1839 OF 2023
IN
CRIMINAL APPEAL NO.577 OF 2023

Vikram @ Viki Rajendra Polade
versus
The State of Maharashtra and another

Applicant
Respondents

Mr.Anand S. Patil, Advocate for Applicant.
Ms.Madhavi Ayyapan with Ms.Kalyani Margav i/by Talekar &
Associates for Respondent no.2.
Ms.PN.Dabholkar, 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 during pendency of Criminal Appeal No.577 of 2023.
2. Appellant is convicted vide judgment and order dated 24th March 2023 for the offence u/s.506 of Indian Penal Code and sentenced to suffer rigorous imprisonment for six months. Applicant was tried for the offences under Sections 354-D, 506 of IPC and u/s.12 of Protection of Children from Sexual Offences Act ('POCSO Act'), however, he has been acquitted of the offence u/s/354-D of IPC and u/s.12 of POCSO Act. Trial Court has thus dis-believed the allegations constituting offence u/s.354-D of IPC and offence u/s.12 of POCSO Act. Applicant was on bail during trial. The sentence was suspended on the date of conviction in accordance with Section 389 of Cr.PC.
3. Learned APP submitted that on the basis of evidence adduced

before Trial Court, applicant has been convicted for the offence u/s.506 of IPC.

4. Respondent no.2 has filed affidavit-in-reply and opposed the relief sought by applicant. The affidavit mentions the fact that seven other cases are registered against the applicant in the past. Applicant threatened the complainant during trial and non-cognizable complaint was registered u/s.504 and 506 of IPC on 31st August 2022. The Trial Court had warned the Applicant not to commit any act as alleged in the N.C complaint otherwise Court will cancel the bail. Advocate for respondent no.2 submitted that victim is proposing to challenge the judgment acquitting the Appellant for offence u/s.354-D of IPC and u/s.12 of POCSO Act.

5. Learned counsel for Applicant on instructions submitted that cases mentioned in the affidavit-in-reply filed by respondent no.2 from sr.no.1 to 7 have resulted in acquittal.

6. Trial Court has acquitted the applicant u/s.354-D of IPC and u/s.12 of POCSO Act. Conviction is u/s.506 of IPC. The sentence imposed by Trial Court is of short term. The judgment of Trial Court indicate that Court has disbelieved the prosecution case qua Section 354-D of IPC and Section 12 of POCSO Act. The sentence is of short term. Applicant was on bail during trial. On the date of conviction sentence was suspended by Trial Court. Hence, 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 25th March 2023 by Additional Sessions Judge, Special Court (POCSO), Kolhapur, in POCSO Special Case

No.60 of 2018 is suspended during pendency of Criminal Appeal, and applicant is directed to be released on same bail as directed by Trial Court with fresh bail bonds;

(iii) Applicant shall not approach the victim-complainant and shall not cause harassment to her.

(PRAKASH D. NAIK, J.)

MST