

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.4522 of 2022
IN
CRIMINAL APPEAL NO. 126 OF 2023

Aakash Raju Latkar .. Applicant
Versus
The State of Maharashtra & Anr .. Respondents
...

Mr. Amit Ichan with Aniket Nikam, Piyush Toshnival and Varad Ozarkar for the applicant.

Ms.P.N. Dabholkar, APP for the State.

Mr.Nikhil Pawar, Advocate appointed for respondent no.2.

CORAM: BHARATI DANGRE, J.

DATED : 20th MARCH 2023

P.C:-

1 In the order dated 8/3/2023, a technical error has occurred. It needs to be corrected, by substituting the name of 'Nitin Pawar' by 'Nikhil Pawar'.

2 The applicant is the biological father of PW 1 who stand convicted for the offence punishable u/s.8 and 12 of the POCSO Act and have been sentenced to suffer RI for a period of five years and for the conviction under the other offences, the sentence has been directed to run concurrently. He has undergone period of one year as an under-trial prisoner.

3 The conviction is based upon two incidents, in respect of which the complaint was filed and in one incident, which is alleged to have taken place on the birthday of the victim, who then was 12 years old, is to the effect that the father moved his hand inappropriately over his daughter touching her head, back and chest.

 The second incident which the victim narrated to her mother is about she being summoned by her father and made to watch a porn video.

4 At the trial, the mother and daughter, both turned hostile and there is extensive cross-examination of the two witnesses by the learned APP and when the examination is perused, several contradictory statements have surfaced on record, which need to be appreciated in the light of the statements given to the police as the victim girl had clearly denied about the statement, (A) and (B) in her statement recorded by the police.

4 In cross-examination, she admit that her statement was not read over to her nor did she read it and she do not know what was recorded.

 In the cross-examination, by the prosecutor, she admit that it was decided that her father can be saved from punishment and she state that nothing had happened, but a quarrel had taken place, where he had consumed liquor. The evidence on record is full of inconsistencies and contradictions and though the learned

Judge had reconciled the evidence on record and held the applicant guilty of committing an offence u/s.8 and 12 of POCSO Act, the alleged perversity which is sought to be projected in the Appeal need to be appreciated at the stage of Appeal.

5 The appellant has already undergone a sentence of one year and 6 months out of five years Imprisonment.

In the circumstances, I deem it appropriate to expedite the hearing of the Appeal, but also suspend the sentence imposed upon the appellant by the Special Judge, Kolhapur on 17/11/2021. Similarly, it is informed that the applicant was on bail throughout the trial and he has not misused his liberty, he deserve to be released on bail subject to furnishing P.R bond to the tune of Rs.25,000/- with one or two sureties in the like amount.

The Record and Proceedings with paper book is received and hence the Appeal is ready for hearing.

It is directed to be listed for final hearing in the week commencing from 5th June 2023.

(SMT. BHARATI DANGRE, J.)