



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 135 OF 2024
IN APPEAL/33/2024**

. Pawan S/o Ramesh Rathod
Age: 28 years, Occu.: Labour,
R/o. Lakhmapur Tanda,
Tq.Mahur, Dist.Nanded. ..Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra
Through Mahur Police Station,
Tq.Mahur, Dist.Nanded.
2. X.Y.Z. ..Respondents

...
Advocate for Applicant : Mr. Ganesh Ramrao Jadhav
APP for Respondent no.1 : Mr.N.D.Batule

...
CORAM : ABHAY S. WAGHWASE, J.

DATE : 11 JANUARY, 2024

ORDER :-

1. Heard.
2. Applicant convict for offence under Section 354-A of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act (POCSO Act) is seeking relief

of suspension of sentence and grant of bail during pendency of appeal preferred by him against judgment and order of conviction passed by Extra District Judge-1 and Additional Sessions Judge, Nanded dated 11-12-2023 in Special Case 23 of 2021.

3. According to learned Counsel for the applicant, there is false implication and unfortunately guilt is recorded in absence of cogent and reliable evidence. It is pointed out that there is total non-application of mind and improper appreciation of evidence and hence, judgment of trial Court is taken exception to. There is a good case on merits, however, much more time is required to hear and decide appeal, it being recent one. He pointed out that conviction is for six months. That during trial, applicant was on bail and hence, he seeks suspension of sentence as well as grant of bail.

4. After considering the submissions and on going through the papers, it appears that prosecution was launched by Mahur Police Station against present applicant for offence under

Sections 354-A, 354-D (1), 341, 506 of the IPC and Section 8 of the POCSO Act. It seems that learned trial Judge convicted applicant for offence under Section 354-A of the IPC and under Section 8 of the POCSO Act, by its order dated 11-12-2023. It seems that applicant is sentenced to suffer rigorous imprisonment for six months and to pay fine.

5. Considering the quantum of sentence and the fact that applicant was on bail during trial, relief as prayed deserves to be granted. Accordingly, following order is passed :

ORDER

- (I) Criminal Application stands allowed.
- (II) The substantive sentence imposed on the applicant in Special Case No.23 of 2021 by the learned Extra District Judge-1 and Additional Sessions Judge, Nanded on 11-12-2023 stands suspended till the final hearing and disposal of Criminal Appeal No.33 of 2024.
- (III) The applicant Pawan S/o. Ramesh Rathod be released on P.R. Bond of Rs.30,000/- (Rs. Thirty thousand only) with two solvent sureties in the like amount.
- (IV) The applicant shall not commit any criminal activity.

(V) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

(VI) In case of two consecutive defaults on the part of the applicant to remain present before the trial Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.

(VII) Bail before the trial Court.

(ABHAY S. WAGHWASE)
JUDGE