



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**909 CRIMINAL APPLICATION NO. 277 OF 2024
IN
CRIMINAL APPEAL NO. 1216 OF 2019**

Bhaurao @ Chandrakant s/o Bhausahab Pawar
Age 37 years, Occu – Labour,
R/o – Lohagaon Road, Sonaee,
Taluka Newasa, District Ahmednagar.

... Applicant
[Orig. Accused]

versus

1. The State of Maharashtra
For the Sonaee Police Station,
Taluka Newasa, District Ahmednagar.

2. XYZ

... Respondents.

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Advocate for Applicant : Ms. Akshara Sharad Madake a/w Mr. Rohit Ravindra Joshi.

APP for Respondent No.1-State : Mr. K. K. Naik

Advocate for Respondent No.2 : Ms. Jayashree R. Nawale [appointed]

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 19 JUNE 2024

PER COURT :-

1. This is an application for suspension of sentence and grant of bail on account of conviction recorded by learned Judge, Special Court, Newasa in Special Case No. 88 of 2018.

2. In support of relief, learned counsel submitted that charge was framed for offence under Sections 8 r/w 7, 12 r/w 11(iv) of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act] as well as Sections 354-A, 354-D and 506 of the Indian Penal Code [IPC]. It is further pointed out that learned trial Judge has convicted applicant for offence punishable under Sections 8 and 12 of the POCSO Act and Sections 354-A and 354-D of IPC and he is sentenced to suffer three years imprisonment and to pay fine. According to learned counsel for the applicant, there is good case in appeal which is preferred in the year 2019. That, there are no prospects of appeal being heard earlier. Moreover, applicant was on bail during trial. Hence she prays for suspension of sentence and grant of bail.

3. Learned APP and learned counsel for the victim, both strenuously opposed pointing out that the girl is barely 16 years of age. She has testified about conduct and act of accused applicant. That, he used to follow and chase her regularly. That, on the day of occurrence also, he caught her hand. That, her evidence has remained unshaken. Moreover, her evidence is fortified by her uncle. Considering the nature of offence, they both pray to refuse relief by rejecting the application.

4. Perused the judgment under challenge. Heard each side.
5. Admittedly, sentence awarded by the trial court is imprisonment for three years. Accusations are of holding hand and compelling victim to enter sugarcane crop. Appeal is filed and considering the year of appeal, some more time is required to hear and decide the same. In the light of above, relief as prayed deserves to be granted. Hence, I proceed to pass the following order:

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Bhaurao @ Chandrakant s/o Bhausahab Pawar in Special Case No. 88 of 2018 by the Judge, Special Court, Newasa on 11.11.2019 stands suspended till the final hearing and disposal of Criminal Appeal No. 1216 of 2019.
- (iii) The applicant be released on P.R. Bond of Rs.15,000/- (Rs. Fifteen 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.
- (viii) Fees of the counsel appointed to represent respondent no.2 is quantified at Rs.5,000/- to be paid by High Court Legal Services Sub-Committee, Aurangabad.

[ABHAY S. WAGHWASE, J.]