



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

**CRIMINAL APPLICATION NO. 343 OF 2024
IN APPEAL/385/2024**

Badrikumar Rameshchandra Gupta
Age : 48 years, Occu.: Nil,
R/o. : 13 Sahawas Society, Ambika Road,
In front of Baliyadevi Party Plant,
Odhav, Ahmedabad City, Ahmedabad (Gujrat)
At present Bhavani Nagar, Jalna.Applicant

Versus

1. The State of Maharashtra
Through its Police Officer,
Police Station, Jalna,
Tq. and Dist.Jalna.
2. X.Y.Z.Respondents

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Advocate for Applicant : Mr.Ganesh Keshav Mane
APP for Respondent no.1 : Mrs.Ashlesha S.Deshmukh
Advocate for Respondent no.2 : Mr. J.S.Jain (appointed)

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 13 NOVEMBER, 2024
PRONOUNCED ON : 18 NOVEMBER, 2024**

ORDER :-

1. Vide instant application, prayers are raised for suspension of sentence and grant of bail in the backdrop of conviction recorded by Special Judge (POCSO), Jalna in Special Case No.73 of 2023.

2. In support of relief, learned Counsel for the applicant submitted that there is apparently false implication. That there are allegations that one person came on Motorcycle and approached victim girls and after pulling down zip of pant, private parts were allegedly shown. Learned Counsel pointed out that there is no concrete and reliable evidence that present applicant is the said person. That complaint was lodged against unknown person. That there was mere description of one Motorcycle. However, the Motorcycle, which was seized does not belong to the applicant, rather it is of a distinct owner and registration certificate particulars of the owner of the Motorcycle of which number was provided, are not on record. That FIR by father of the victim is on hearsay information. That identification of actual accused is not proved. That case has not been proved beyond reasonable doubt. However, conviction is recorded and therefore, appeal has been preferred, but the same is pending and will take long time to be heard. Learned Counsel pointed out that sentence awarded is of one year and applicant is already behind bars for more than three months. For all above reasons, he prays to grant relief of suspension of sentence and grant of bail.

3. While opposing the application, learned APP as well as learned Counsel appointed for respondent no.2 would submit that there are two victims in this case. That they are around 8 to 9 years of age. That both victims have deposed in the witness box. That there is doc identification and on full-fledge trial guilt is recorded. They both submitted that considering the nature of charge, application may be rejected.

4. Perused the papers including impugned judgment as well as copies of depositions. Admittedly father of one of the victims seems to have set law into motion. His testimony shows that he received information from his wife, who was allegedly reported by daughter victim. Both victims are also examined before the Court and they are consistent about person coming on Motorcycle. They both deposed about he to be the person, who was purchasing torn currencies. They both have identified him in the witness box. There is no defence of false implication and even why there would be false implication is not explained. Though sentence is of one year, considering the nature of allegations and age of victims, no case is made out to grant relief as prayed. Accordingly, I proceed to pass following order :

ORDER

(i) Criminal Application No.343 of 2024 is rejected.

(ii) Fees of learned Advocate appointed for respondent no.2 is to be paid through the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

(ABHAY S. WAGHWASE)
JUDGE

SPT