



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 351 OF 2024
IN
CRIMINAL APPEAL NO.275 OF 2024

Sagar Subhash Lekurwale
Age: 30 yrs. Occupation: Service,
R/o : Langotwadi, Tq. Paranda
Dist. Osmanabad.

... Applicant

Versus

The State of Maharashtra
(Through Ambi Police Station
In C. R. No.108/2020)

... Respondent

...

Mr. S. T. Zalte, Advocate for Applicant (Through V.C.)
Mrs. Chaitali Chaudhari - Kutti, APP for Respondent - State
Mr. Nitin S. Salunke, Advocate for Respondent No.2.

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 1st APRIL, 2024

PRONOUNCED ON : 5th APRIL, 2024

ORDER :

1. Convict, who has preferred Criminal Appeal No.275 of 2024 against the judgment and order of conviction dated 16.10.2023 passed by learned Special Judge, Paranda Dist. Osmanabad in Special Case No. 61 of 2023, is praying for suspension of sentence and grant of bail during pendency of appeal.

2. Learned counsel for applicant submitted that accused was charge-sheeted and tried for offence punishable under sections

354, 506 of Indian Penal Code (IPC) and under sections 3(1)(w), 3(1)(r)(s), 3(2)(va) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act (SC & ST Act) and under sections 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 (POCSO Act). It is further pointed out that, conviction has been recorded only for offence under section 354 of IPC and under sections 7 and 8 of POCSO Act and he has been sentenced to suffer rigorous imprisonment for three years and to pay fine. That, victim is aged 17 years and some months old. That, moreover, learned trial court suspended the sentence. That, applicant was on bail during trial. There is a strong case on merits in appeal. However, as appeal is preferred in 2024, much more time would be required to decide the same and hence he prays for suspension of sentence and grant of bail during pendency of appeal.

3. Learned APP opposed the application on the ground that, serious offence has been committed. Victim being minor, provisions of POCSO Act are attracted. However, he concedes that, sentence has been suspended by learned trial court and that accused was on bail during trial.

4. Learned counsel for victim surprisingly submitted that complainant is not opposing the application.

5. After considering the above submissions it seems that present applicant was made to face trial vide Special Case No. 61 of 2023 by learned Special/Additional Sessions Judge, Paranda, Dist. Osmanabad on above charges. It seems that, prosecution had rested its case on evidence of eight witnesses including victim (PW2). Admittedly, operative part shows there is acquittal from charges under section 506 of IPC, section 12 of POCSO Act and under the provisions of Atrocities Act.

6. Conviction recorded for section 354 of IPC and Sections 7 and 8 of POCSO Act, resulted into passing sentence of three years and to pay fine. Operative part further shows that, accused was behind the bar since 13.11.2020 to 26.11.2020. Statement is made across the bar that thereafter the applicant was on bail.

7. Considering the quantum of sentence, nature of allegations and the fact that appeal having been filed recently would take long time to be heard and decided, relief prayed is required to be granted. Hence, I Proceed to pass following order :-

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Sagar Subhash Lekurwale in Special Case No. 61 of

2023 by learned Special Judge/Additional Sessions Judge, Paranda Dist. Osmanabad on 16.10.2023 stands suspended till the final hearing and disposal of Criminal Appeal No.275 of 2024.

- (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 their 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, J.)