



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 826 OF 2024

IN

CRIMINAL APPEAL NO.179 OF 2024

Dhananjay s/o Gunaji Natkar,
Age: 25 years, Occ.: Labour,
R/o Paradgaon, TQ. Ghansawangi,
Dist. Jalna.

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Police Station,
Partur, Tq. Partur,
Dist. Jalna.

2. X.Y.Z.

... Respondents

...

Mr. Manikrao L. Wankhade, Advocate for Applicant.
Mrs. Chaitali Chaudhari – Kutti, APP for Respondent – State.
Mr. Navin S. Shah, Advocate for Respondent No.2 (Appointed).

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 4th JULY, 2024

PRONOUNCED ON : 8th JULY, 2024

ORDER : -

1. In instant application, convict for offence punishable under section 8 read with section 7 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and under section 506 (II) of Indian Penal Code (IPC), is praying for suspension of sentence and grant of bail on account of his conviction recorded by Extra

Joint District Judge and Additional Sessions Judge (POCSO), Jalna in Special Case No.92 of 2023.

2. In support of relief, learned counsel pointed out that, applicant is held guilty for above offences and is sentenced to suffer three years imprisonment for each of the above offence and to pay fine. Fine amount is paid. That, applicant was on bail during trial. As regards to merits are concerned, learned counsel pointed out that, there are mere allegations of catching hold of hand and issuing threats to behead. That, allegations are apparently false and sole testimony of the child is unfortunately believed by the trial Judge. According to him, there is improper appreciation of evidence at the hands of trial Judge and therefore, against the judgment and order of conviction, appeal has been preferred, but it would take long time to be heard and decided and hence he prays for relief of suspension and grant of bail during pendency of appeal.

3. Learned APP as well as learned counsel appointed on behalf of victim, both opposed by submitting that, victim is barely 15 years of age. That, after she came out of school, that day, accused has committed above act and moreover issued threats to kill, if she does not marry him. That, child's testimony is intact. That, offence being serious and guilt being proved beyond reasonable doubt, they both prayed to refuse the relief as prayed.

4. Heard each of the side. It seems that, on trial, applicant is convicted for offence punishable under section 8 read with section 7 of POCSO Act and under section 506 (II) of IPC and he is sentenced to suffer three years imprisonment for each of the offence. Testimony of victim is at Exh.28. Her statement seems to be recorded in question answer form by the trial Judge. According to her, incident took place on 03.03.2023. At the time of incident, she seems to be studying in 10th standard. But, while answering question no.5, she gave different date of occurrence as she has answered incident took place on 02.03.2023. While answering question no.9, 10 and 11 posed by the court, she has answered that, one boy of their village came, caught hold her hand and pulled her hair and told her to marry him and further he said that, if her father refused to perform marriage, then he will cut her head and hang it to the flag. It seems that, said incident had allegedly taken place while she had came out of the school after her last paper was over at around 2:00 p.m.

5. Therefore, allegations prima facie are of catching hold of hand and pulling hair. Considering the above version of victim, quantum of sentence and the fact that appeal being of 2024, would take long time to be heard and decided, 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 Dhananjay s/o Gunaji Natkar in Special Case No.92 of 2023 by Extra Joint District Judge and Additional Sessions Judge (POCSO), Jalna on 18.12.2023 stands suspended till the final hearing and disposal of Criminal Appeal No.179 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.
- (viii) Fees of learned Advocate, who is appointed to represent the cause of respondent no.2, is quantified at Rs.3,000/- to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(ABHAY S. WAGHWASE, J.)