



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO. 1067 OF 2024
IN APEAL/236/2024**

Ajay Bhausahab Kothimbire
Age-32, Occupation : Agri.,
R/O- Shivajinagar, Taluka- Shrigonda
Dist- Ahmedgalaga.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Shrigonda Police Station,
Tq. Shrigonda, District- Ahmednagar

2. X.Y.Z.

... Respondents.

...
Advocate for Applicant : Mr. Rahul R. Karpe.
APP for Respondent - State : Mr. K. K. Naik.
Advocate for Respondent No.2 : Ms. Ashwini Sahastrabudhe
(Appointed)

...

CORAM : ABHAY S. WAGHWASE, J.

Dated : 3rd July, 2024

PER COURT :-

1. This is an application for suspension of sentence and grant of bail in consequence to conviction recorded by learned Additional Sessions Judge, Shrigonda in Special (SC/ST) Case No. 44 of 2019, convicting applicant for offence punishable under sections 354(D)(i), 504 and 506 of Indian Penal Code and section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (for short, "Atrocities Act").

2. In support of relief, learned counsel for applicant pointed out that, applicant has been sentenced to suffer imprisonment for a term of three years, which is maximum for the above offences. That, he has already paid fine amount. That, he was on bail during trial. That, there is improper appreciation, and therefore, appeal has been preferred. That, said appeal is of 2024 and it would take sufficiently long time to be heard and decided and he has every hope of success in appeal. For all above reasons, relief of suspension of substantive sentence as well as grant of bail is pressed into service.

3. Strongly opposing the relief, learned APP as well as learned Advocate for victim would point out that, offense is serious. That, victim is a college going student and she was threatened and abused. That incident has taken place in a public place. That, findings are supported by cogent evidence and considering the nature of allegations, they both prayed to reject the application.

4. Heard each of the side. After considering the respective submissions advanced before this court, in the light of nature of allegations and also considering the fix term of sentence to be of three years coupled with the fact that the applicant was on bail

during trial and appeal being of 2024 and there are no immediate prospects of hearing the appeal, the relief as prayed deserves to be granted. Hence, the following order.

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Ajay Bhausahab Kothimbire in Special (SC/ST) Case No. 44 of 2019 by the learned Additional Sessions Judge, Shrigonda on 07.02.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.236 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.)