



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1079 OF 2024
IN
CRIMINAL APPEAL NO. 239 OF 2024

Dhondiram @ Kailas Jagannath Shinde,
Age:49 years, Occu: Nil.
R/o. Yesgaon, Tq. Kopargaon,
Dist. Ahmednagar.

..... Applicant
(Orig. Accused No.1)

Versus

1. The States of Maharashtra,
Through Police Inspector,
Kopargaon Police Station,
Tq. Kopargaon, Dist. Ahmednagar.

2. XYZ

..... Respondents

...

Mr. A. N. Barhate Patil, Advocate for Applicant.
Mrs. Ashlesha Deshmukh, APP for Respondent – State.
Mr. Pushkar Shendurnikar, Advocate for Respondent
No.2(Appointed)

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 12 APRIL, 2024

PRONOUNCED ON : 17 APRIL, 2024

ORDER :

1. Vide instant application, convict has set up prayers for suspension of sentence and grant of bail during pendency of appeal.

2. Learned counsel for applicant pointed out that, applicant was charge-sheeted, tried and held guilty for commission of offence under section 354-A of Indian Penal Code (IPC) and section 8 of the Protection of Children from Sexual Offences Act,

2012 (POCSO Act). He pointed out that, sentence awarded is of five years and to pay fine. That, there is improper appreciation of evidence by the learned trial Judge and hence appeal has been preferred. It is further pointed out that, there is delay in lodging FIR. Moreover, applicant is a government servant. He was on bail during trial and as much more time would be required to hear and decide the appeal, he prays for suspension of sentence and grant of bail during pendency of appeal.

3. Learned APP strongly opposed the application on the ground that, victim is proved to be minor. She has narrated about the ill deeds by applicant. That, father of victim was not present and he came later on, and thereafter, she was then informed and this was followed by prompt lodgment of complaint. That, there are allegations of molestation. That, age of the victim is proved. That, in spite of being government servant, he has behaved irresponsibly and so she prays to refuse the prayers.

4. Learned counsel for victim pointed out that, age of victim is proved. Accused was a caretaker. He had taken undue advantage and had stripped the victim and forcibly molested her, kissed her and even issued threats. He offered victim to sleep with him. Therefore, allegations are serious and as such he prays to reject the application.

5. Heard respective parties. Victim PW3 seems to be 16 years of age. During her visit to marriage hall to meet aunt, accused approached victim. She has narrated that, he took her to a room, undressed her and thereafter kissed her and even embraced her. According to her, even asked her to sleep with him. Because of threats, she did not report immediately. But, subsequently reported a teacher, who in turn reported her father.

6. Apparently, accused was charge-sheeted for offence punishable under section 354-A of IPC read with Sections 7 and 8 of POCSO Act and Sections 3(1)(w)(i) of Atrocities Act, 1989 and Amendment Act, 2015 and he finally held guilty for offence under section 354-A of IPC and section 8 of the POCSO Act. Taking the nature of allegations, though applicant was on bail during trial, it is not a fit case to extend benefit of suspension of sentence and grant of bail. Hence, I proceed to pass the following order :-

ORDER

The application stands rejected.

(ABHAY S. WAGHWASE, J.)