



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1080 OF 2024
IN
CRIMINAL APPEAL NO. 240 OF 2024

Gopal S/o. Navnath Devhare,
Age:19 years, Occu : Nil,
R/o. Om Sai Nagar, Pimpalwadi Road,
Shirdi, Tq. Rahata, Dist. Ahmednagar.

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

Versus

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

2. X.Y.Z.

... Respondents

...
Mr. Shailesh S. Chapalgaonkar, Advocate for Applicant.
Mr. D. J. Patil, APP for Respondent - State
...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 15th APRIL, 2024

ORDER :

1. Convict in Special Case No.53 of 2018 for offence punishable under section 354-A and 506 of Indian Penal Code (IPC) and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), is praying for suspension of sentence and grant of bail during pendency of appeal.

2. Learned counsel for applicant submitted that,

applicant was tried for above offences and by judgment and order dated 05.03.2024 held guilty and he is sentenced to suffer rigorous imprisonment of five years, one year and to pay fine respectively for each of the offence. He pointed out that, said judgment of trial court is questioned by filing Criminal Appeal No.240 of 2024 and the same would take sufficiently long time to be heard and decided. That, in fact there is no corroboration to the testimony of the victim and moreover there is delay in lodging the FIR. In the backdrop of previous disputes and quarrels, there is false implication, and moreover, applicant is a young boy of 19 years of age. That, he was on bail during trial. Hence, above relief is pressed into service.

3. Learned APP opposed the application by pointing that serious offence has been committed. That, victim is minor. Conviction is upon due satisfaction and so he prays to refuse the prayers.

4. This court had issued notice to the victim on 11.03.2024 and report was received on 26.03.2024 that victim has refused to accept the notice. Report also speaks that when they were called to police station, there was avoidance for the same also.

5. Perused the papers, more particularly evidence of victim (PW4). Her evidence is that, at the time of incident, she was in 7th standard. While she was proceeding to buy snacks on 26.10.2017 at around 7:15 p.m., finding her alone in the lane, accused caught her hand and pulled her towards him. According to her, he tried to touch her chest and when she shouted, he issued threats to kill her father. She managed to rescue, but because of threat, she did not inform anybody. However, she reported the occurrence to her parents only on 01.11.2017. Apparently, thus, occurrence of 26.10.2017 is reported on 01.11.2017.

6. Taking the nature of allegations into consideration, age of victim as well as age of accused and also taking into consideration the fact that appeal to be of 2024, obviously it would take long to be heard and decided, relief as prayed deserves to be granted. Accordingly, I proceed to pass the following order :-

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Gopal S/o. Navnath Devhare in Special Case No. 53 of 2018 by the Judge, Special Court, Kopargaon, Dist. Ahmednagar on 05.03.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.240 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.)