



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.1340 OF 2024
IN
CRIMINAL APPEAL NO.286 OF 2024

. Jayendra Ramesh Wagh,
Age about – 33 Yrs. Occ- Labour
R/o-Gautam Nagar, Galli No.14,
Ambedkar Nagar, Aurangabad .. Applicant

Versus

1. The State of Maharashtra,
Through its Police Station,
Aurangabad City Police Station,
Tq. Aurangabad, Dist. Aurangabad

2. XYZ .. Respondents

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Advocate for Applicant: Mr. Harshal P. Randhir
APP for Respondent/State: Mrs. Uma S. Bhosale
Advocate for Respondent No.2: Ms. Akshara Sharad Madake (*Appointed*)

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 03.07.2024

Pronounced on : 05.07.2024

ORDER:

1. Convict for offence under Section 452, 354, 354-A(2) and 294 of the Indian Penal Code, 1860 (IPC) with Section 12 of the Protection of Children from Sexual Offences Act (POCSO Act) is seeking relief of suspension of sentence and grant of bail.

2. Learned counsel submitted that maximum sentence awarded for above offence is 2 years i.e. for offence under Section 452 of IPC. For rest of the offence conviction is for 1 year, 1 month respectively. Against judgment and order dated 02.02.2024 appeal is preferred. It would take long time to be heard. Learned counsel submitted that there was previous quarrel between mother of complainant and accused. There is possibility of false implication. There is every hope of succeeding in the appeal and considering the quantum of sentence, he prays for relief of suspension of sentence and grant of bail.

3. While opposing above relief, learned counsel for the State pointed out that victim is around 14 years age. That, finding her alone, applicant entered the house caught hold of her hand and uttered filthy language. According to learned APP, accused is 33 years of age. Offence is cogently proved against him.

4. According to learned counsel for the victim, accuse resides in the same vicinity and in the backdrop of safety concern of the victim, his prayer for bail be rejected.

5. Heard both the sides. Perused the papers and operative part of the judgment passed in Special Case (POCSO) No.110 of 2023.

6. Perused the victim's testimony. There are allegations of catching hold and using filthy language. Sentence awarded under Section 452 of IPC is of 2 years and for the rest of the offence, learned trial court has sentenced applicant to suffer 1 year, 1 month respectively and to pay fine. Applicant was said to be on bail during trial. Considering the short sentence, relief as prayed deserves to be granted. Accordingly, I proceed to pass following order:

ORDER

- (I) Criminal Application stands allowed.
- (II) The substantive sentence imposed on the applicant in Special Case (POCSO) No.110 of 2023 by the learned Special Judge (POCSO), Aurangabad, on 02.02.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.286 of 2024.
- (III) The applicant – Jayendra Ramesh Wagh 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 tender bail papers and

thereafter, the trial Judge to fix dates for his 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.]

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