



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1406 OF 2024 IN
CRIMINAL APPEAL NO.300 OF 2024**

Devidas Waghoba Rathod

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Mr. N.J. Patil, Advocate for applicant
Mr. B.B. Bhise, A.P.P. for respondent
Mr. Tushar Shinde, Advocate for respondent No.2 (appointed)
.....

**CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ.**

DATE : 6th MAY, 2024

ORDER :

This is an application for suspension of sentence awarded by learned Sessions Judge, Latur in Sessions Case No.75/2019 vide judgment and order dated 4/3/2023, convicting the applicant/ appellant for the offences punishable under Section 376(1)(2)(n) of the Indian Penal Code and sentencing to suffer imprisonment for life, which shall mean imprisonment for the remainder of his life and to pay fine of

Rs.50,000/-, in default to suffer R.I. for 6 months. The applicant is also convicted for the offence punishable under Section 506 of the Indian Penal Code and sentenced to suffer R.I. for 2 years and to pay fine of Rs.25,000/-, in default to suffer S.I. for 6 months. The substantive sentences have been directed to run concurrently.

2. In nutshell, the case of prosecution is that, the informant is the daughter-in-law of the applicant. It is her case that, after her marriage, her mother-in-law insisted that she should give bath to the applicant. During bath, the applicant outraged her modesty. It is her further case that, the applicant raped her from time to time for a period of 4 years. She lodged the report against the applicant, her husband and her mother-in-law. The learned Trial Court acquitted the mother-in-law. The husband died during the pendency of the trial.

3. It is submitted by learned counsel for the applicant that, the case is false. He submits that, the last incident of rape as alleged by the daughter-in-law was two years prior to the lodging of the report. He submits that, the applicant was on bail during trial. He submits that, the applicant is 71 years

of age. He submits that, the application be allowed.

4. The application is opposed by the learned A.P.P. for the State and learned counsel for the informant. They submit that, the informant has described the various instances in detail in the F.I.R. They submit that, the informant's testimony is impeccable and remained unshaken in the cross-examination. They submit that, the application be rejected.

5. There is no dispute that, the informant refused her medical examination. The last incident of rape is two years back from the date of the F.I.R. The applicant is 71 years of age and there is no likelihood that the appeal would be heard finally in near future. The applicant was on bail during trial. Hence we proceed to pass the following order :

ORDER

(i) The Criminal Application is allowed.

(ii) Pending the appeal, the substantive sentences of imprisonment imposed against the applicant/ appellant by

learned Sessions Judge, Latur in Sessions Case No.75/2019 vide judgment and order dated 4/3/2023 to stand suspended and the applicant/ appellant be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(iii) We quantify fees of Advocate for the informant appointed by this Court at Rs.8000/- (Rupees eight thousand) for the purpose of this application.

(iv) Parties to act upon authenticated copy of this order.

(NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)

fmp/-