



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1710 OF 2024
IN
CRIMINAL APPEAL NO. 395 OF 2024

Bharat S/o Ramesh Markad,
Age : 33 years, Occu.: Agril,
R/o. Songiri, Tq. Bhoom,
Dist. Osmanabad.

... Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra,
Through Bhoom Police Station,
Tq. Bhoom, Dist. Osmanabad.

2. X.Y.Z.

... Respondents

...

Mr. Dadpe Prasanna Diliprao, Advocate for Applicant.
Mr. N. D. Batule, APP for Respondent No.1 - State.
Mr. R.D. Sanap, Advocate for Respondent No.2 (Appointed).

...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 21st JUNE, 2024

PER COURT :

1. Instant application is for suspension of sentence and grant of bail on account of conviction recorded by learned Special Judge, Bhoom (under POCSO Act), District Osmanabad in Special Case (POCSO) No. 15 of 2023.

2. In support of relief, learned counsel for applicant pointed out that, applicant was charge-sheeted and tried for

offence punishable under sections 354 and 354(D) of Indian Penal Code (IPC) and sections 7 read with sections 8 and section 11 read with section 12 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act). It is further submitted that, conviction recorded is three years. According to him, there are allegations of catching hold of left upper arm of victim. That allegations are false. 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. It is further pointed out that, during trial applicant was on bail. For all above reasons, relief of suspension of substantive sentence as well as grant of bail is pressed into service.

3. Learned APP as well as learned Advocate for victim have strongly opposes the application submitting that offence is cogently proved. That, she was minor. That, there was evidence to that extent. 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 and on going through the testimony of PW1 victim, prima facie, it is emerging that, she was married. There are allegations of catching hold of left upper arm of victim finding her alone near the field.

5. Considering the nature of allegations, terms of sentence coupled with the fact that the applicant was on bail during trial and appeal being of 2024, there are no immediate prospects of hearing the appeal, therefore, resultantly applicant succeeds.

6. In the light of above discussion and facts and circumstances, 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 Bharat S/o Ramesh Markad in Special Case (POCSO) No. 15 of 2023 by the Special Judge, Bhoom (under POCSO Act), District Osmanabad on 03.04.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.395 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.)