



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

913 CRIMINAL APPLICATION NO. 1861 OF 2024
IN APEAL/433/2024

NAMDEO SHIVAJI ULAGADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

Mr.S.J. Salunke, Advocate for the Applicant.
Mr.S.M. Ganachari, APP for the Respondent/State.
Mr.Santosh C. Bhosle, Advocate for Respondent No.2.

CORAM	: ABHAY S. WAGHWASE, J.
RESERVED ON	: 07.05.2024
PRONOUNCED ON	: 09.05.2024

ORDER :-

01. Present application is pressed into service for suspension of sentence and grant of bail by virtue of conviction recorded by the learned Special Judge, Mukhed in Special Case No.13 of 2023 dated 22.04.2024 recording guilt of the offence punishable under section 354 of the Indian Penal Code and section 8 of the Protection of Children From Sexual Offences Act, 2012.

02. In support of the relief, the learned Counsel for the applicant after apprising the Court about nature of charge, points out that the occurrence is

of 15.01.2023 and the FIR is not prompt but is rather on next day. It is pointed that the very parents of the victim have not supported the prosecution. He would submit that both parents of victim deposed about lodging complaint out of misunderstanding and anger. He also took this Court to the testimony of victim, more particularly cross and would submit that even testimony of the victim is not inspiring confidence. Consequently, there being improper appreciation at the hands of learned Trial Court, there is a good case on merit in appeal. According to him, it would take sufficiently long time to hear and decide the appeal and he prays for relief of suspension of sentence and grant of bail.

03. The learned APP strongly opposed the application pointing out that though parents have not supported but considering the testimony of the victim, the learned Trial Court recorded guilt. Considering nature of allegation, he prays to refuse the relief.

04. The learned Counsel for the victim also made statement across the bar that substantive evidence of victim be considered while considering entitlement of the relief.

05. Heard. Perused the papers. It is emerging that the crime was registered for the offence punishable under sections 354, 354-A of the IPC and section 8 of the POCSO Act. On full-fledge trial, the learned Trial Court seems to have held charges for the offence punishable under section 354 of the IPC and Section 8 of the POCSO Act as proved and has sentenced the applicant to suffer two years imprisonment and to pay fine.

06. On going through the testimony of the parents, apparently they seems to have resiled and have consequently not supported the prosecution. There is material in their deposition that due to misunderstanding and in anger complaint was lodged. Statement is made across the bar by learned Counsel that the applicant was on bail during the trial. Considering the above material, nature of accusation, nature of evidence and quantum of sentence awarded, 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 No.13 of 2023 by the learned Special Judge, Mukhed on 22.04.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.433 of 2024.

(III) The applicant - Namdeo Shivaji Ulagade be released on P.R. Bond of Rs.30,000/- (Rupees Thirty Thousand Only) with two solvent sureties in the like nature.

(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 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.

[ABHAY S. WAGHWASE, J.]