



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2045 OF 2024
IN
CRIMINAL APPEAL NO.475 OF 2024

1. Kirteshwar Pralhadrao Sathe,
Age-27 years, Occupation-Agriculture,
R/ o. Naikota, Tq. Sonpeth,
Dist. Parbhani.

... Applicant

Versus

1. The State of Maharashtra
2. X.Y.Z.

... Respondents

...
Mr. Sudarshan J. Salunke, Advocate for Applicant
Mrs. Chaitali Chaudhari – Kutti, APP for Respondent – State
Mrs. Rekha Mohale – Choudhari, Advocate for Respondent
No.2 (Appointed)
...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 21st JUNE, 2024

PER COURT :

1. Convict for offence punishable under section 354 of Indian Penal Code (IPC) and section 7 read with section 8 of POCSO Act and section 11 read with section 12 of POCSO Act by the Special Judge/Additional Sessions Judge, Gangakhed, Dist. Parbhani in Special Case (POCSO) No.4 of 2019, has preferred instant application praying for suspension of sentence and grant of bail, during pendency of appeal.

2. Apprising this court about the nature of charge, learned counsel for applicant submitted that, victim is reported to be 12 years of age. He took this court through the testimony of victim PW3 and would submit that, apparently there are allegations of mere disrobing and there is no any further act. That, learned trial court has sentenced him to suffer imprisonment for four years for offence punishable under section 7 read with section 8 of POCSO Act and further sentenced him to suffer imprisonment for three years for offence punishable under section 354 of IPC and three years for offence punishable under sections 11 read with section 12 of POCSO Act. That, against the said judgment, appeal has been preferred. The same is numbed as Criminal Appeal No.475 of 2024. Further, according to him, applicant was on bail during bail. That, he has already paid fine amount. It is submitted that, appeal being of current year, it will take long time to be heard and decided and moreover, there are good prospect of succeeding in the appeal. Hence, for all above reason, he prays for suspension of sentence and grant of bail during trial.

3. Strongly opposing the application, learned APP as well as learned counsel for victim pointed out that, firstly victim is barely 12 years of age. It is pointed out that, at the time of incident, if girl not raised cries, more grave offence could have been

committed. Learned trial court has correctly appreciated and convicted applicant i.e. on fullfledged trial and on complete appreciating the evidence. Considering the severity of the offence ,they both prayed to refuse the relief as prayed.

4. Heard both sides. At this stage, statement of victim is visited, more particularly, regarding the occurrence. Apparently, there are allegations of unzipping his own pant i.e. by the applicant and pulling down the undergarment of the victim. Appeal has been preferred against the said judgment and order and the same being of 2024, some more time would be required to hear and decide the appeal. Applicant was said to be on bail during trial.

5. 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 Kirteshwar Pralhadrao Sathe in Special Case (POCSO) No.4 of 2019 by the Special Judge/ Additional Sessions Judge, Gangakhed, Dist. Parbhani on 07.05.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.475 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.)