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CR APPLICATION NO. 2284 OF 2024

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

**11 CRIMINAL APPLICATION NO. 2284 OF 2024
IN APPEAL/516/2024**

. Shaikh Sharif S/o Shaikh Ajij
Age : 43 years, Occu.: Labour,
R/o-Seed farm, Muktai Nagar,
Tal.Muktai Nagar, Distt.Jalgaon. ..Applicant

Versus

1. The State of Maharashtra
2. XYZ ..Respondents

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Advocate for Applicant : Mr. Shaikh Nasimoddin Rafiyoddin

APP for Respondent no.1 : Mr.S.K.Shirse

Advocate for Respondent no.2 : Mr. Shivashish V. Bhopi

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 09 SEPTEMBER, 2024

ORDER :

1. This is an application for suspension of sentence and grant of bail.
2. In support of above relief, learned Counsel for the applicant pointed out that applicant was tried by learned Additional Sessions Judge, Bhusawal for commission of offence under Section 354-D of

the Indian Penal Code (IPC) and under Section 12 of the Protection of Children from Sexual Offences Act (POCSO Act). That after conclusion of trial, he has been held guilty for the aforesaid offence and sentenced to suffer imprisonment for six months and to pay fine. It is pointed out that sentence awarded is barely of six months and to pay fine. That fine amount is already paid. That applicant was on bail during trial. That his appeal is of 2024 and would take long time to be heard and decided and hence, the above relief is prayed.

3. Learned APP and learned Advocate appearing for victim both strongly opposed the application on the ground that victim was barely 16 years of age at the time of incident. That there are serious allegations. Moreover, applicant is more than 40 years of age. That after complete appreciation of evidence, guilt has been recorded and for all above reasons, they prayed to dismiss the application.

4. After hearing the submissions advanced by the parties and on going through the papers, it transpires that applicant was tried for offence punishable under Section 354-D of the IPC and Section 12 of the POCSO Act. By order dated 09-05-2024, learned Additional Sessions Judge, Bhusawal seems to have recorded guilt for the

aforesaid offence. Admittedly, sentence is for fix term of six months and to pay fine. Statement is made across the bar that fine amount is paid. Submission that applicant was on bail during trial is not refuted by prosecution. Appeal is apparently of 2024 and would obviously take some more time to be heard and decided. Therefore, application deserves to be allowed. Accordingly, I proceed to pass following order :

ORDER

- (i) Criminal Application No.2284 of 2024 stands allowed.
- (ii) The substantive sentence imposed on the applicant Shaikh Sharif S/o Shaikh Ajij in Special Case No. 31 of 2015 by the learned Additional Sessions Judge, Bhusawal on 09-05-2024 stands suspended till the final hearing and disposal of Criminal Appeal No.516 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 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)
JUDGE