



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

**910 CRIMINAL APPLICATION NO. 2359 OF 2024
IN APPEAL/528/2024**

. Hanmant S/o Bapurao Bhadre
Age: 40 years, Occu.: Labour,
R/o. Dabade Shirur, Tq.Mukhed,
Dist.Nanded. ..Applicant

Versus

1) The State of Maharashtra
Through Police Station Officer,
Mukhed Police Station, Tq.Mukhed,
Dist.Nanded.

2) XYZ ..Respondents

...

Advocate for Applicant : Mr. Avinash D. Hande
APP for Respondent no.1 : Mr.D.R.Korade

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 13 SEPTEMBER, 2024

PRONOUNCED ON : 19 SEPTEMBER, 2024

ORDER :-

1. Instant application for suspension of sentence and grant of bail arises out of judgment and order of conviction recorded by learned Additional Sessions Judge, Mukhed, District Nanded dated 15-04-2024 in Sessions Case No.55 of 2021.

2. It is submitted by the learned Counsel for the applicant that after completion of trial, applicant was awarded sentence of seven years, however, he further added that as on today, applicant has almost suffered four years of imprisonment. That there are allegations of commission of offence under Section 376(2)(j)(l) of the Indian Penal Code (IPC), however, it is pointed out that, victim was 20 years of age. That there was false implication at the instance of sister-in-law. That there was love affair. It is further pointed out that after getting knowledge to that extent, false report has been filed. He further submitted that infact victim is a differently abled person. That she could not communicate on account of her disability to speak and hear. That her evidence was recorded by extracting services of interpreter. That medical evidence is negative and not supporting prosecution. Therefore, there is a good case in appeal, however, according to learned Counsel, as the matter would take long time to be heard and decided, above prayers for suspension of sentence and grant of bail are pressed into service.

3. Above application is strongly opposed by the learned APP on the ground that victim is differently abled person. That there is serious offence. That on complete appreciation of evidence, trial

Court has recorded guilt and therefore, application is sought to be rejected.

4. After considering the submissions and on going through the papers, it seems that evidence of victim is at exh.70. Apparently she is unable to speak and hear. Her evidence seems to have been recorded through a special Teacher working in deaf and dumb school. In the evidence, it has come that while she was separating and cleaning grains, she was made to sleep on the cot, disrobed and she pointed out to the accused in the dock, who gave his name as Hanmant. Catching gestures of pointing towards private part by victim, Translator seems to have given evidence that she was ravished. It is also translated that alleged incident took place during day time and that it was witnessed by her sister-in-law. Sister-in-law is also examined as PW1, who in her evidence at exh.53, stated that on 12-08-2020 at around 01:00 p.m. when she entered the house, she saw accused applicant having sexual intercourse with victim and therefore, she questioned him, upon which, she was slapped and therefore, she raised shout. After her husband came home, she reported the occurrence and report exh.54 was lodged at Police Station.

5. It appears that prosecution has adduced evidence of as many as six witnesses and also relied on documentary evidence including medical papers. Taking into account the fact that offence is committed against a differently abled girl, and when trial Court has conducted full-fledge trial and has recorded guilt, considering magnanimity of the incident and as applicant was not reported to be beneficiary of bail during the trial, he is not entitle for the relief as prayed. Accordingly, I proceed to pass following order :

ORDER

Criminal Application No.2359 of 2024 is rejected.

(ABHAY S. WAGHWASE)
JUDGE