



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2659 OF 2024
IN CRIMINAL APPEAL NO. 585 OF 2024

Prakash @ Bitya Vishwambhar Kshirsagar

..APPLICANT

VERSUS

State of Maharashtra and Others

..RESPONDENTS

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Mr. D.S. Ingole, Advocate h/f Mr. N.S. Ghanekar, Advocate for applicant

Mr. S.J. Salgare, A.P.P. for respondent no.1 – State

Mr. S.G. Shinde, Advocate for respondent nos. 2 and 3

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CORAM : R.G. AVACHAT AND
NEERAJ P. DHOTE, JJ

DATE : 06th AUGUST, 2024

PER COURT :

1. This is an application for suspension of substantive sentence imposed on the applicant by Additional Sessions Judge, Nanded in Sessions Case No. 106 of 2021 vide judgment and order dated 09th May, 2024 for the offences punishable under Sections 307, 324, 354-A and 354-D of the Indian Penal Code.

2. Heard learned counsel for the applicant, learned A.P.P. for State and learned counsel for the victim.

3. It is submitted by learned counsel for the applicant that the victim herself has not supported the case of the prosecution in her cross-

examination. Her mother is the first informant. One more witness, who is examined as an eye witness, has not supported the prosecution case. He submitted that the applicant is behind the bars for more than three years and therefore, application be allowed.

4. Learned A.P.P. submits that considering the evidence on record, appropriate order be passed.

5. Learned counsel for the victim submits that the applicant and the victim were in love and now the victim wants to get married with the applicant. The victim is personally present before the Court. When asked, she submits that she wanted to marry the applicant and seeks for suspending the sentence of the applicant. Learned counsel for the victim places on record the affidavit of the respondents – victim giving no objection for allowing the application.

6. The trial Court has imposed the sentence in the nature of imprisonment for life for the offence punishable under Section 307 of the I.P.C. In our view, prima facie said sentence appears to be disproportionate to the offence committed. Even, the victim in her cross-examination has not supported the case of prosecution. There is no possibility that the appeal would come up for hearing in the near future.

7. In view of above, the execution of substantive sentence of imprisonment to stand suspended pending the appeal. The applicant be released on his executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

8. Criminal application stands disposed of.

SSD (NEERAJ P. DHOTE, J.)

(R.G. AVACHAT, J.)