



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3422 OF 2024
IN
CRIMINAL APPEAL NO. 741 OF 2024

Shivaji Motiram Jadhav,
Age : 45 years, Occu. : Labour,
R/o. : Gojegaon, Mukhed,
Dist. Nanded.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Police Station Mukramabad,
Dist. Nanded.

2. X.Y.Z.

... Respondents.

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Mr. Ameya N. Sabnis, Advocate for Applicant.

Mr. K. K. Naik, APP for Respondent - State.

Ms. Sayyed Gausiya Bi Noora, Advocate for Respondent no.2.

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 28 NOVEMBER 2024

PRONOUNCED ON : 03 DECEMBER 2024

ORDER :

1. Instant application is for suspension of sentence and grant of bail as a result of judgment and order dated 19.07.2024 passed in Special Case No. 28 of 2021 by Special Court, Mukhed.

2. It is submitted that, present applicant was booked for offence punishable under sections 354-A, 504 and 506 of Indian

Penal Code (IPC) and section 8 and 12 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act). That, trial was conducted vide Special Case No.28 of 2021 and by judgment and order dated 19.07.2024, he is held guilty for offence punishable under sections 354-A, 504, 506 of IPC and section 7 read with section 8 and section 11 read with section 12 of POCSO Act. Learned counsel submits that maximum sentence awarded is of three years. That, against said judgment, appeal has been preferred, but it is of 2024. It will take long time to be heard. Learned counsel pointed out that he was on bail during trial. That, there is improper appreciation of both, evidence as well as law. That, applicant has a good case on merits and hence learned counsel prays for relief of suspension of sentence and grant of bail during pendency of appeal.

3. Learned APP strongly opposed on the ground that victim is barely 13 years of age. That, age is proved. That, there is evidence of victim as well as mother. That, accused could not probabalize his stand and therefore considering the gravity of the offence which is proved, learned APP is prayed to reject the application.

4. After considering the submissions and on going through the papers, more particularly, evidence of victim PW1 and her mother PW2, it seems that, incident is of 11.05.2021 in the evening.

Victim deposed that, while she was grazing she buffalo, applicant came with his she goats, and when she goats were eating field crops, she told him to remove them from crops. She further deposed that, after calling her on the pretext of whispering something in her ears, he took her in the field, made her fall, and thereafter, while he was getting undressed, he asked her also to get undressed. She deposed that, that time after giving jerk to his hand, she managed to run home and informed her mother.

5. Mother PW2 in her evidence also stated about daughter returning home weeping and narrating the incident with her. Her evidence is on the similar lines like her daughter. Victim seems to be a student aged 15 years. Therefore, though sentence is of three years, considering the nature of offence, this court is not in favour of granting relief of suspension.

6. The criminal application stands rejected.

(ABHAY S. WAGHWASE, J.)

7. After pronouncement of order, learned counsel Shri Ameya Sabnis for the applicant prays for extension of interim relief as he intends to approach before the Hon'ble Apex Court.

8. Learned APP as well as learned counsel for respondent no.2 strongly oppose.

9. Interim relief granted by this court vide order dated 14.08.2024 to continue for a period of four (4) weeks from today.

(ABHAY S. WAGHWASE, J.)