



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3312 OF 2023
IN
CRIMINAL APPEAL NO. 808 OF 2023

Ravindra S/o. Gangaram Raut,
Age : 37 years, Occu. : Agri.,
R/o. Takali, Tal. Paithan,
Dist. Aurangabad

... Applicant
(Orig. Accused)

Versus

1. State of Maharashtra,
Through : Police Station Officer,
Police Station M.I.D.C. Paithan,
Tal. Paithan, Dist. Aurangabad.

2. X.Y.Z.

... Respondents

...
Mr. Rameshwar Uddhavrao Gavhane, Advocate for Applicant.
Mr. N. D. Batule, APP for Respondent - State.
Mr. Prashant Kawade, Advocate for Respondent No.2 (Appointed)
...

CORAM : ABHAY S. WAGHWASE, J.

DATED : 29th FEBRUARY, 2024

ORDER :

1. Convict, who has preferred Criminal Appeal No. 808 of 2023 against judgment and order of conviction dated 14.07.2023 passed by Special Judge (POCSO), Aurangabad in Special Case (POCSO) No. 59 of 2019, is praying for suspension of sentence and grant of bail during pendency of appeal.

2. It is pointed out that, applicant is convicted for offence punishable under section 354A(2) of IPC and sentenced to suffer

rigorous imprisonment for one year and to pay fine. There is improper appreciation of evidence in trial court. That, there is a good case on merits. However, as much more time would be required for decision of appeal on merits, hence, it is prayed that sentence be suspended and applicant be granted bail during pendency of appeal.

3. Learned APP opposed the application on the ground that, victim was minor and studying in 9th standard. Offence has been made out, and therefore, according to him, applicant is rightly convicted. He therefore prays to dismiss the application.

4. Perused the papers. It seems that, prosecution was launched against present applicant for commission of offence under section 354A and 294 of IPC and section 12 of POCSO Act. In trial court, prosecution seems to have adduced evidence of four witnesses including victim. Learned trial court seems to have recorded conviction only for offence under section 354A(2) of IPC and applicant seems to be acquitted for provisions under section 294 of IPC and section 12 of POCSO Act. Sentence awarded is rigorous imprisonment for one year and to pay fine.

5. Considering the quantum of sentence and as appeal is

of 2023, obviously it takes long time to be heard and decided, relief of suspension of sentence and grant of bail deserves to be granted.

Hence, I proceed to pass the following order :-

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Ravindra S/o. Gangaram Raut in Special (POCSO) Case No.59 of 2019 by the learned Special Judge (POCSO), Aurangabad on 14.07.2023 stands suspended till the final hearing and disposal of Criminal Appeal No.808 of 2023.
- (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.

(ABHAY S. WAGHWASE, J.)