



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3337 OF 2023
IN
CRIMINAL APPEAL NO. 813 OF 2023

Mangesh Murlidhar Patil,
Age : 23 years, Occu. : Agri.,
R/o. Walwad, Tq. Bhoom,
Dist. Osmanabad.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Station Bhoom,
Tq. Bhoom, Dist. Osmanabad.

2. X.Y.Z.

... Respondents

...
Mr. Ganesh J. Kore, Advocate for Applicant/Appellant.
Mr. N. D. Batule, APP for Respondent - State
Ms. Pratibha Jamdhade, Advocate for Respondent No.2 (Appointed)

...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 06 FEBRUARY, 2024
PRONOUNCED ON : 09 FEBRUARY, 2024

ORDER :

Vide instant application, prayers are raised for suspension of sentence and grant of bail by virtue of conviction recorded by Special Judge, Bhoom dated 21.08.2023 in Special Case (POCSO) No. 3 of 2017 for offence punishable under sections 354, 506 of the Indian Penal Code (IPC) and section 11 read with section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. It is submitted that, there is false implication. There are allegations that, victim below 18 years of age was harassed and her modesty was outraged by accused applicant on 31.12.2016. That, prosecution has adduced evidence of 08 witnesses. According to learned counsel for applicant, there is no cogent, reliable or direct eye witness. According to him, prosecution has not proved victim to be 18 years of age by adducing legally acceptable evidence. There is variance in the statement before the police and before the learned Judicial Magistrate First Class. Specific defence of accused is that, there was quarrel on account of payment of hire charges and as such there is false implication. Lastly, it is submitted that, learned trial Court has inflicted imprisonment for only one year. That, applicant is young boy of 23 years of age. He has preferred appeal against judgment and order of conviction, but as it would take long time, he prays to suspend the sentence and grant of bail during pendency of appeal. It is specifically pointed out that, during trial applicant was on bail and he has already deposited fine amount.

3. Learned APP as well as learned counsel for victim both opposed on the ground that, victim is below 18 years of age, She has been victimized by outraging her modesty. Provisions of IPC as well as POCSO Act are attracted. For above reasons, relief is sought to be refused.

4. After considering the submissions and on going through the papers, it is emerging that, FIR was lodged by victim with Bhoom Police Station on 31.12.2016. Precisely accusations are that, victim, who is taking education in the college, went to attend skill development programme and her hand was caught hold by accused, expressing love, he allegedly pulled her sack and hairs. Some incidents also had taken place with the victim at the hands of accused on 29.09.2016. Information to police seems to have been passed by Principal resulting into registration of crime. Learned trial Judge upon trial has held applicant guilty for offence punishable under sections 354 and 506 of IPC and section 11 read with 12 of POCSO Act and sentenced him to suffer one year imprisonment.

5. Such order of trial court dated 21.08.2023 seems to be questioned by filing appeal instituted in September 2023. Therefore, till date applicant is behind bars for almost 5 months. Taking the nature of accusations into considerations, the circumstances, age of the victim as well as accused, 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 Mangesh Murlidhar Patil in Special Case (POCSO) No.03 of 2017 by the learned Special Judge, Bhoom on 21.08.2023 stands suspended till the final hearing and disposal of Criminal Appeal No.813 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.)