



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3599 OF 2023
IN
CRIMINAL APPEAL NO. 865 OF 2023

1. Pratik Anil Shinde,
Age : 21 Years, Occ: Labor,
R/o: Behind Haral Hospital,
Nagar Kalyan Road, Ahmednagar,
Tq. and Dist. Ahmednagar.
 2. Mayur Lala Kamble,
Age : 18 Years, Occ: Labor,
R/o: Behind Ambika Hospital,
Kedgaon Devi, Ahmednagar,
Tq. and Dist. Ahmednagar.
- ... Applicants.

Versus

1. The State of Maharashtra,
Through Topkhana Police Station,
Dist. Ahmednagar.
 2. XYZ
- ... Respondents

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Mr. G. R. Syed, Advocate for the Applicants.
Mr. K. K. Naik, APP for Respondent No.1-State.
Mr. Kiran D. Jadhav, Advocate for Respondent No.2 [appointed]

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 13.03.2024

ORDER :

1. This is an application for suspension of sentence and grant of
bail by virtue of conviction recorded by special Judge, POCSO Court,

Court No.2, Ahmednagar, in Special Case No. 77 of 2022 dated 18.08.2023.

2. Learned counsel for the applicants submitted that accused were chargesheeted for commission of offences under Sections 354, 354-A, 354-D, 324, 504 r/w 34 of the Indian Penal Code [IPC] and Section 11(iv) and 12 of the Protection of Children from Sexual Offences Act, 2012 [POCSO Act]. That, after trial, accused were convicted for offences under Sections 354, 354-A, 354-D, 323, 504 r/w 34 of IPC and Sections 11 and 12 of the POCSO Act and it is pointed out that maximum sentence awarded to both of them is only for two years. That, appeal has been preferred against such judgment, however it would take long time the the appeal to be finally heard and decided. Hence he prays for suspension of sentence and grant of bail.

3. Learned APP as well as learned counsel for victim, both opposed submitting that victim was minor at the time of incident and that, there is conviction for offence under Section 354-A and 354-D of IPC as well as under the provisions of the POCSO act and offence being serious, they pray to refuse prayer of suspension and grant of bail

4. Heard both sides.

5. It seems that prosecution was launched for above offences and accused were tried and finally held guilty by the trial court, who appreciated six witnesses on behalf of prosecution, including complainant victim.

6. Perused the testimony of complainant at Exhibit 27. According to her on 04.10.2021, both accused came on motorcycle and they were whistling and she felt ashamed. She alleged that accused Mayur was riding motorcycle and expressed that he liked her and even pushed her and therefore occurrence was reported. Apparently conviction is for two years. Considering the quantum of sentence and nature of allegations, relief as prayed 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 applicants Pratik Anil Shinde and Mayur Lala Kamble in Special Case No. 77 of 2022 by the learned Special Judge, POCSO Court, Court No.2, Ahmednagar on 18.08.2023 stands suspended till the final hearing and disposal of Criminal Appeal No. 865 of 2023.

- III. The applicants be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only)(each) with two solvent sureties each in the like amount.
- IV. The applicants shall not commit any criminal activity.
- V. The applicants shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date they tender 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 applicants 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 applicants.
- VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]