



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4798 OF 2024
IN APPEAL/1041/2024

. Kiran Ankush Kamble
Age: 20 years, R/o. Malegaon,
Tq.Georai, Dist.Beed. ..Applicant

Versus

1) The State of Maharashtra
Through Police Station,
Incharge Officer Chaklamba

2) XYZ ..Respondents

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Advocate for Appellant : Mr. Mahesh Laxmanrao Muthal

APP for Respondent No.1 : Mr.N.B.Patil

Advocate for Respondent No.2 : Ms.Pratibha Suryawanshi
(appointed)

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 17 DECEMBER, 2024

ORDER :

1. This is an application for suspension of substantive sentence awarded by learned Special and Sessions Judge, Beed dated 16-10-2024 in Special (POCSO) Case No.105 of 2022 holding appellant guilty for offence under Sections 8 and 12 of the Protection of Children from Sexual Offences Act (POCSO Act) and sentencing him rigorous imprisonment for 3 years and 1 years respectively and to pay fine.

2. Learned Counsel for the applicant submitted that there is false implication. That there is no convincing evidence or independent witness. Therefore, judgment has been taken exception to, but appeal is of 2024 and it will take long time to be heard. He pointed out that applicant was on bail during trial. That he has already paid fine amount. That he has every hope of succeeding in appeal. Hence, he prays for suspension of substantive sentence and grant of bail.

3. Learned APP as well as learned Counsel appointed for respondent no.2 both strongly opposed application on the ground that victim was studying in 7th Standard. That she has named applicant, who was her neighbour. That he had pulled her pant and only because she raised cries, further overt act was averted. For above reasons, they both resisted the relief.

4. After considering the above submissions and on going through the statement of the victim, which is at exh.30, it transpires that victim was studying in 7th Standard. There is no challenge that she is a minor. Incident seems to have taken place in the night when victim was sleeping with her grandparents. Allegations are that accused

came in the night and pulled pant of victim after which she raised cries. On her such statement, learned Special and Sessions Judge seems to have recorded guilt for offence under Sections 8 and 12 of the POCSO Act. Admittedly, appeal is of 2024 and there are no prospects of hearing of appeal in near future. Considering the age of the applicant, nature of accusations, relief as prayed deserves to be granted. Accordingly, I proceed to pass following order :

ORDER

- (i) Criminal Application is allowed.
- (ii) The substantive sentence imposed on the applicant – Kiran S/o Ankush Kamble by the learned Special & Sessions Judge, Beed in Special (POCSO) Case No.105 of 2022 dated 16-10-2024 stands suspended till final hearing and disposal of Criminal Appeal No.1041 of 2024.
- (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 his subsequent appearances.

- (vii) 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.
- (viii) Bail before the trial Court.
- (ix) Fees of learned Counsel appointed to represent respondent no.2 is to be paid through the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

(ABHAY S. WAGHWASE)
JUDGE