



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4512 OF 2023
IN APPEAL/362/2024

. Shaikh Musa Shaikh Baba
Age: 45 years, Occu.: Agri.,
R/o. Deogaon, Tal.Badnapur,
Dist.Jalna.

....Applicant
(Orig. Accused)

Versus

1. The State of Maharashtra
(Through Badnapur Police Station,
Tq.Badnapur, Dist.Jalna)

2. XYZ

..Respondents

.....
Advocate for Applicant : Mr.Sopan G.Bobade
APP for Respondent no.1 : Mr.Rajdeep D.Raut
Advocate for Respondent no.2 : Mr.Shaikh Mateen Patel and
Mr.Shaikh Kayyum Najir
.....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 29 JULY, 2024

PRONOUNCED ON : 31 JULY, 2024

ORDER :

1. Convict for offence punishable under Sections 10 read with 9,
8 read with 7, 12 read with 11 of the Protection of Children from
Sexual Offences (POCSO) Act, is praying for suspension of sentence
and grant of bail.

2. Pleading false implication, learned Counsel for the applicant pointed out that on account of previous disputes, false and fabricated story has been set up. He pointed out that there is no prompt reporting of the occurrence and even there is delay in lodging FIR. Learned Counsel took this Court through the evidence of victim, her mother and submitted that their versions are apparently motivated to implicate applicant. That there is improper appreciation of evidence by learned trial Court. That applicant was on bail and there was no misuse of bail conditions during trial. That he has a good case on merits. But as appeal is recent one and it would take long time to be heard, learned Counsel prays for relief of suspension of sentence and grant of bail.

3. Learned APP for respondent no.1 State as well as learned Counsel for victim / informant, strongly opposed application by pointing out that victim is barely eight years of age. That she has narrated the acts of accused, who is her neighbour. That her testimony has remained unshaken. That guilt is recorded on complete appreciation of evidence and for all above reasons, the relief as sought is opposed.

4. Victim, whose evidence is at exh.27, deposed that she is of around 10 years of age. She testified that accused resides near her house. That he used to touch her private parts inspite of she resisting. That she has alleged that he used to indulge in indecent behaviour by issuing threats and even he gave threat to kill and prevented her from crying. Paragraph 6 of the cross-examination at the hands of defence shows that occurrence and act of touching has not been denied. Apart from parents, prosecution seems to have examined Gram Sevak in support of age, which shows that, date of birth of victim is 14-07-2012.

5. Therefore, considering the age of victim, nature of allegations, charges proved, quantum of sentence, no case is made out for either suspension of sentence or grant of bail.

ORDER

Criminal Application No.4512 of 2023 is rejected.

(ABHAY S. WAGHWASE)
JUDGE