



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 2881 OF 2024
IN
CRIMINAL APPEAL NO. 597 OF 2024

Umakant s/o Giridhar Mahabloe,
Age : 39 years, Occ : Barber,
R/o Gawali Wada, Umbare Kotha,
Osmanabad.

... Applicant

Versus

1. The State of Maharashtra

2. X. Y. Z.

... Respondents

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Ms. Anagha N. Pedgaonkar, Advocate for the Applicant (appointed through Legal Aid)

Mr. S. K. Shirse, APP for Respondent No.1-State

Mr. Chaitanya C. Deshpande, Advocate for Respondent No.2 (appointed)

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 27 SEPTEMBER 2024

PER COURT :-

1. Instant application is the offshoot of judgment and order of conviction recorded by learned I/c Special Judge (POCSO) and Additional Sessions Judge, Osmanabad in Special Case (POCSO) No. 58 of 2019, praying for suspension of sentence and grant of bail.

2. Learned counsel for the applicant submitted that applicant was tried vide above case for the charge of commission of offence under

Sections 354-A of the Indian Penal Code and Section 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act). That, trial culminate into conviction, but only for offence under Section 12 of the POCSO Act and he has been sentenced to suffer imprisonment for 6 months and to pay fine. Learned counsel points out that fine is already paid. He submits that the appeal being of 2024, it would take long time to be heard finally and decided. She also points out that applicant was on bail during trial and therefore, considering the quantum of sentence, she prays for grant of both reliefs, i.e. suspension of sentence as well as grant of bail.

3. Learned APP strongly opposed on the ground that victim was minor and serious offence is committed. However, learned APP concedes that sentence is of imprisonment for six (06) months and fine of Rs.2,000/-, and that applicant was on bail during trial.

4. Learned counsel for the victim also opposes on the same grounds.

5. After considering the submissions so advanced, it is seen that on 30.03.2024, learned trial Judge has rendered the judgment of conviction, but only for offence under Section 12 of the POCSO Act,

and applicant seems to have been given clean chit from other offence i.e. under Section 354-A of IPC. Considering the quantum of sentence, the aspect of applicant being on bail during trial, and as much more time would be required to hear and decide the appeal, this Court is inclined to grant the relief as prayed. Hence, the following order is passed :

ORDER

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicant Umakant s/o Giridhar Mahabloe in Special Case (POCSO) No. 58 of 2019 by I/c Special Judge (POCSO) and District Judge-3 and Additional Sessions Judge, Osmanabad on 30.03.2024 stands suspended till the final hearing and disposal of Criminal Appeal No. 597 of 2024.
- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees 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.

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 bail granted to the applicant.

VII. Bail before the trial court.

VIII. The fees of the counsel appointed for the applicant as well as the counsel appointed for respondent no.2 be paid by the High Court Legal Services Sub-Committee, Aurangabad as per Rules.

[ABHAY S. WAGHWASE, J.]

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