

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3226 OF 2023
IN
CRIMINAL APPEAL NO. 1293 OF 2023

Sunil Subhash Jadhav	...	Appellant
V/s.		
State of Maharashtra & Anr.	...	Respondents

Advocate Syed Shabana Ali, for the appellant.

Mr. A.R. Patil, APP, for the State.

Mr. A. Mishra, for respondent no. 2 (through legal aid)

CORAM : KISHORE C. SANT, J.

DATE : 16TH APRIL 2024.

PC:

1. This application is moved seeking suspension of sentence passed by the Extra Joint District Judge and Additional Sessions Judge, Sangli in Special Case (POCSO) No. 28 of 2017 dated 29th March 2023 holding the applicant guilty for the offences punishable under section 363 and 376 (2) (n) (i) of Indian Penal Code (for short, 'IPC') and under sections 4 and 6 of POCSO, Act and to pay fine of Rs. 25,000/- in default to suffer further RI for 2 years. The maximum sentence awarded is 20 years.

2. Learned advocate for the applicant vehemently argued the case. From the evidence of PW-3 i.e. the victim, she submits that the victim had married with applicant. They both were staying together. For sometime physical relations took place. They performed marriage in one Ganpati Temple. She further submits that now even the victim has got married. The applicant is also married having two children. She further states that the date of birth of the victim is wrongly shown as 01.06.2002. Infact her date of birth is 20.01.1998. She thus submits that there is no proper evidence in respect of age of victim.

3. Learned APP and learned advocate for respondent no. 2 point out that in the cross-examination no such suggestions were given as regards the date of birth. They pray for rejection of the application.

4. After hearing the parties, this Court finds that the Court has specifically recorded the age of the victim a 14 years and 9 months at the time of incident. Learned APP pointed out that as per the school record the date of birth shown as 01.06.2002. The Head Mistress is also examined by the prosecution to prove age of the victim.

5. Considering the above, this Court finds that, prima facie, no case is made out by the applicant to suspend the sentence and to release the applicant on bail. This court is therefore, of the opinion that

this is not a fit case to allow the application. Hence the application deserves to be rejected and the same is hereby rejected.

6. The application stands disposed of.

7. The appeal is expedited. The applicant is at liberty to move this Court for final hearing after six weeks. The applicant is also at liberty to prepare private paper-book. If the private paper-book is prepared office to accept the same.

(KISHORE C. SANT, J)