

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO.2901 OF 2022
IN
CRIMINAL APPEAL NO.546 OF 2022

Moin Mobine Ansari : Applicant
Vs.
The State of Maharashtra & Anr. : Respondents

Adv. Yash Fadtare a/w Adv. Satyavrat Joshi, for the Applicant.
Mrs. M. R. Tidke, APP, for the State.
Adv. M. G. Shukla, Appointed for the Legal Aid for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 14TH MARCH, 2024

PC. :

1. Heard learned Advocate for the Applicant.
2. This Application is for suspension of sentence and for release of Accused/Applicant on bail. The Applicant is convicted for the offences punishable under Sections 376(3), 363 of the Indian Penal Code & for offences punishable under Sections 6 & 8 of POCSO. The maximum sentence awarded is to suffer R.I. for 20 years and to pay fine of Rs.1,000/- and in default to suffer simple imprisonment for one month.

3. It is the case of the prosecution that the victim girl aged 14 years & 7 months studying in 8th standard. Though the parents of the victim have turned hostile on the basis of evidence of the victim herself and the Medical Evidence, the Court recorded that the offence is proved and convicted the accused and awarded the sentence. The Birth Certificate exhibit-60 is also proved of the prosecution.

4. Learned Advocate for the Applicant vehemently argued that the age of the Accused was hardly 19 years when the alleged incident took place. Victim never resisted the Accused & she in fact, went with him to different places in a bus. Even then she did not offer any resistance. From the evidence of the doctor, he points out that the doctor has opined that there are no external injuries on the person of the victim, suggesting that there is no forceful sexual assault. The main defense of the Applicant is that of consensual sex.

5. Learned APP submits that the victim was a minor of 14 years & 7 months. Her evidence is consistent and is corroborated by the Medical Evidence. From the evidence, it is seen that the victim did not resist because of the threats given by the accused. She has categorically stated about the incident. The age is also proved of the victim by producing on record Birth Certificate. She thus submits that the learned Trial Court has

rightly convicted the Applicant.

6. Learned Advocate for the Respondent No.2 also vehemently opposes the Application. He submits that, no case is made out to show that the judgment is perverse.

7. Considering the above this Court finds that, when there is sufficient evidence on record and no case is made out, that the judgment delivered by the Trial Court is perverse or without any evidence.

8. This Court finds that the case is made out to suspend the sentence and to release the Applicant on bail.

9. Application therefore stands dismissed.

(KISHORE C. SANT, J.)