

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1171 OF 2024
IN
CRIMINAL APPEAL NO.308 OF 2024

Subhash Yamaji Gaikwad ..Applicant
Versus
The State of Maharashtra & Anr. ..Respondents

Mr. Vignesh Ashokan a/w Sachin H. Deokar, for the Applicant.
Mr. A. R. Patil, APP for the Respondent/State.
Ms. Sushan Mhatre, for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 8th MAY, 2024

PC.

1. Heard learned counsel for the parties.
2. Appeal is already admitted by order dated 10th April, 2024.
3. This Application is for suspension of sentence and grant of bail to the accused in connection with judgment and order dated 06.03.2024 passed by learned Special Judge, Pune in Special Case No.337 of 2018. Learned Court by way of impugned judgment has held the Applicant guilty for the offence punishable under Sections 354, 354A of IPC and Section 7 r/w 8 of POCSO Act. Applicant is directed to suffer RI for four years and to pay fine of Rs.5000/-, in

default to suffer simple imprisonment of six months for the offence under Section 8 of the POCSO Act. Applicant is further directed to suffer RI for four years and to pay fine of Rs.2000/-, in default to suffer SI for six months for the offence under Section 354 of IPC, Applicant is also directed to suffer RI for one year for the offence under Section 354A of IPC by way of judgment and order dated 06.03.2024 in Special Case No.337 of 2018.

4. Learned advocate for the Applicant submits that the sentence is a short sentence of four years. Applicant has already deposited the fine amount. During the trial, Applicant was in jail from 28.04.2018 to 15.05.2018. Applicant is again taken in custody on 06.03.2024. Applicant has thus suffered two months imprisonment after the judgment and above seventeen days during the trial. He thus further submits that the sentence is a short sentence and the Appeal is not likely to be heard in near future. There is no complaint of misuse of liberty, when the Applicant was on bail during the trial. He thus prays for suspension of sentence and release of the Applicant on bail.

5. Learned APP, so also, learned advocate appointed for the Respondent No.2 vehemently oppose the Application submitting that the offence is under POCSO Act and the Applicant has committed such act on minor child. The accused was of the age of her grandfather and still he has done such offence and pray for rejection of the Application.

6. Since the sentence is a short sentence and fine amount is already paid, so also, there is no chance of Appeal being taken up for final hearing in near future, this Court is inclined to allowed the Application. Hence, the following order :-

- i) The Application stands allowed.
- ii) The substantive sentence awarded by learned Special Judge, POCSO Act, Pune dated 06.03.2024 in Special Case No.337 of 2018 stands suspended.
- iii) Applicant shall be released on bail on furnishing PR bond and one solvent surety in the sum of Rs.15,000/-.
- iv) Applicant shall neither contact the victim nor her relatives.
- v) Applicant shall keep informed his contact details including mobile number to the concerned Police Station. If there is any change in the above mentioned contact details, Applicant shall immediately inform the same to the concerned Police Station.

7. The Application stands disposed of.

[KISHORE C. SANT, J.]