

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1716 OF 2023

IN

CRIMINAL APPEAL NO.529 OF 2023

Vikrant Vijay Virkar : Applicant

Vs.

State of Maharashtra & Anr. : Respondents

Adv. Mahendra V. Kawchale a/w Adv. Premkumar Mishra & Adv. Satish
Hargude for the Applicant.

Mrs. M. R. Tidke, APP for the Respondent/State.

CORAM : KISHORE C. SANT, J.

DATE : 1st FEBRUARY, 2024

PC. :

1. Heard the parties.
2. This application is filed seeking suspension of sentence awarded by the learned Special/Sessions Judge, Pune in Special Case No.464 of 2020 dated 13th April, 2023. The Applicant is held guilty for the offences punishable under Sections 354, 506(II) of the Indian Penal Code and for the offences punishable under Sections 8 & 12 of the POCSO. The maximum sentence awarded is four years and to pay fine of Rs.4000/- and in default to suffer imprisonment for one year. For the offence punishable

under Section 8 of the POCSO. For the offence punishable under Section 12 of the POCSO Act, Applicant is directed to suffer two years imprisonment and pay fine of Rs.2000/- and in default to suffer imprisonment for six months. For the offence punishable under Section 506, Applicant is directed to suffer imprisonment for 3 years and to pay fine of Rs.3000/- and in default to suffer imprisonment for nine months. No separate sentence is awarded for offence punishable under Section 354 of the Indian Penal Code.

3. Learned Advocate for the Applicant submits that during the trial the accused was on bail. He has already deposited fine amount. There is no complaint of misuse of liberty. He further submits that on merits the case is made out for acquittal, as the allegation is made only after this Applicant sent notice to his wife for divorce. The incident is alleged to have taken place in the month of March & April 2020. He sent notice of divorce in June, 2020 and it is only thereafter a complaint came to be filed. Though the victim is his step daughter, when the allegation is in April, 2020, one of the alleged incidents took place, when mother of the victim was working in the house he submits that thus the case of the prosecution appears to be doubtful. It is prayed for suspension of sentence and release on bail.

4. Learned APP and the learned Advocate for the Respondent No.2 (appointed) submit that looking to the relation between the victim and the accused that is step daughter and step father, it was not expected of the accused to do such act. The Court has clearly recorded a finding on the basis of evidence led before the Court. The victims was below age of 15 years. They pray for rejection of the Application.

5. Looking to the fact that the sentence is a short sentence and since the Applicant was already on bail and that now fine amount is deposited, this Court finds that, a case for bail is made out. However to secure the interest of the victim, some conditions are necessary. Hence the following Order.

ORDER

- a) Interim Application stands allowed.
- b) Substantive sentence awarded by the learned Additional Sessions Judge, Pune dated 13th April, 2023 in Special Case No.464 of 2020 is suspended.
- c) The Applicant shall be released on bail on furnishing PR. bond of Rs. 25,000/- with one or more solvent surety in the like amount.

- d) The Applicant shall not try or attempt to contact the victim and any of the witnesses.
- e) The Applicant shall keep informed concerned Police Station about his residential address, mobile number etc and other contact details till the final disposal of the Appeal.
- f) He shall not enter in the vicinity where the victim and her mother are residing.
- g) The Application stands disposed of.

(KISHORE C. SANT, J.)