

Sanjay Shubhnarayan Patel ... Applicant/Appellant
V/s.
State of Maharashtra & Anr. ... Respondent

Mr. Afsar Ansari I.by Mr. Rashmi Gawda, for the applicant/appellant.
Ms. Trupti Khamkar for Respondent No. 2.

DATE : 19TH JANUARY 2024.

1. Heard the parties.
2. This application is filed seeking suspension of sentence and release the applicant on bail. The applicant is convicted for the offence punishable under Sections 363, 376 (2) (j) (l) r/w. Section 511, 342 and 354 of the Indian Penal Code vide Section 235(2) of Cr.P.C. and sentenced to suffer Rigorous Imprisonment for ten years and to pay fine of Rs. 30,000/- and in default to suffer Rigorous Imprisonment for

one year vide judgment and order dated 19th May 2022 passed by Special Judge under POCSO Act, Sessions Court, Dindoshi, Goregaon, Mumbai.

3. The appeal is already admitted.

4. R & P is received.

5. Learned Advocate for the applicant submits that the applicant was in jail during the trial. He was arrested on 29th December 2018 and since the he is in jail. He has just completed more the 50% of the sentence out of total sentence.

6. Learned Advocate appointed through legal aid for the respondent no. 2 vehemently opposes the application stating that in this case the victim at the time of incident was hardly 8 years of age and mentally retarded girl. Whereas the applicant is having three children and he is also suffering from HIV. Considering this, this is a heinous crime and prays for rejection of the application.

7. Learned APP also submitted that this is not a case where the accused be released merely because he has completed more the half of the sentence. This Court had seen from the deposition of the minor girl victim who deposed through interpreter. It is seen that there is evidence which clearly shows that offence is serious offence. The

version of the witnesses corroborated with the version of prosecutrix. The victim was required to be taken to psychiatrist department .

8. PW-4, Medical Officer in his deposition stated that the victim girl is mentally retarded.

9. The prosecution has examined the other independent witnesses which have also supported the case of the prosecution by identifying the accused.

10. Looking to the evidence, this Court finds that the application deserves to be rejected. Though it is submitted that the accused is HIV patient and he requires some treatment. This Court finds that his care can be taken by the jail authorities. Considering this, jail authorities shall take special care of the applicant.

12. The application is therefore, rejected.

13. The applicant is at liberty to move after two years.

(KISHORE C. SANT, J)