

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.3922 OF 2023
IN
CRIMINAL APPEAL NO.1107 OF 2023**

Balasaheb Laxman Bangar ..Applicant/Appellant
Versus
The State of Maharashtra & Anr. ..Respondents

Ms. Shubhangi Parulekar a/w Rohan Hogle, for the Applicant/
Appellant.
Mrs. M. R. Tidke, APP for the Respondent/State.
Mr. B. N. Kabugade, API, Khed, Pune Rural Police Station – present.

CORAM : KISHORE C. SANT, J.

DATE : 18th MARCH, 2024

PC.

1. By order dated 18th October, 2023, this Court had issued notice. Thereafter time to time, the matter was on board. Learned APP informs that the Respondent No.2 has refused to accept the notice. This Court therefore proceeds to take up the Application for suspension of sentence and bail for hearing today. The report is taken on record.

2. Heard the parties.

3. This Application is preferred for suspension of sentence and grant of bail in connection with Sessions Case No.298 of 2014

decided by the Additional Sessions Judge, Pune by judgment and order dated 10th August, 2023. The Applicant is held guilty for the offence punishable under Sections, 376, 420, 323, 504, 506 of IPC. The sentence imposed is as under :-

Sections	Punishment	Fine	Punishment in default of payment of fine
376 of IPC	RI for 7 years	Rs.5,000/-	SI for 6 months
420 of IPC	SI for 3 years	Rs.3,000/-	SI for 6 months
323 of IPC	SI for 6 months	Rs.1,000/-	SI for 7 days
504 of IPC	SI for 1 month	Rs.500/-	SI for 15 days
506 of IPC	SI for 1 month	Rs.500/-	SI for 15 days

All the sentences are directed to run concurrently.

4. It was the case of the prosecution that since 2006, the Respondent No.2 and the Applicant were knowing each other. There was also affair between them. In 2013, the informant lodged the complaint with the Police that the Applicant has committed rape on the victim under the pretext of promise of marriage and other allegations. In the evidence before the Court, the victim herself stated that in 2006 she had taken admission to D.Ed college, where she came in contact with the accused. They both became friends and thereafter friendship turned into love affair. Applicant had taken her at various places on various occasions and had established physical relations with her. The complaint was however lodged in 2013. The Court on going through the evidence found the accused to be guilty of the offence and convicted him.

5. Learned advocate for the Applicant vehemently argued that it is a clear case of consensual relations between the parties. From 2006 till 2013, the victim was constantly in contact and in fact was in love relations with the accused. The victim and the accused both are matured and they are teachers. There is no question of any forcible rape being committed. It is only the dispute started when she came to know that the Applicant is married and is having children. Thereafter she lodged complaint. She further submits that during the trial the Applicant was on bail. Applicant has already suffered more than two years in jail after conviction, wherein he was on bail during trial. There was no complaint of misuse of liberty. Applicant has also paid fine on the date of judgment. During the trial, the Applicant was in jail for four months and from the date of judgment i.e. 10th August, 2023. Thus, he has completed almost two years.

6. Learned APP opposes the Application stating that the Court has rightly considered the evidence and has convicted the Applicant. No case is made out to suspend the sentence.

7. Considering the evidence of the victim, it is found that she has accepted that the Applicant and victim were in love. She has moved with him at various places and has also stayed with him on several occasions. The victim is also a teacher knowing the consequences of this, still she did not immediately lodge complaint, which shows that initially she had no objection to have physical

relations. Her grievance appears to be that under the pretext of marriage, Applicant had established physical relations. After coming to know that the Applicant is married person, she filed complaint. However, the fact remains that at the time of alleged physical relationship, victim was not under pressure of threat or threat of life or no consent appears to have been obtained under threat. *Prima-facie* this Court finds that the Applicant has made out a case for grant of bail by suspending sentence. Hence, the following order :-

- i) The Application stands allowed.
- ii) The sentence awarded by the Additional Sessions Judge, Pune *vide* judgment and order dated 10th August, 2023 in Sessions Case No.298 of 2014 stands suspended.
- iii) Applicant is directed to be released on bail on furnishing PR bond and solvent surety in the sum of Rs.15,000/-.
- iv) Applicant shall not contact the victim in any manner.
- v) Applicant shall attend concerned Police Station as and when required.
- vi) Applicant shall furnish contact details including his mobile number etc. to the concerned Police Station. If there is any change in the contact details, Applicant shall immediately inform to the concerned Police Station.

8. The Application stands disposed of.

[KISHORE C. SANT, J.]