

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 4632 OF 2023
IN
CRIMINAL APPEAL NO. 1215 OF 2023

Atmaram Laxman Pachupate ... Applicant/Appellant

V/s.

The State of Maharashtra and Anr. ... Respondents

Mrs. Nasreen SK Ayubi, appointed advocate, for the applicant.

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

Mr. Shankar Katka, appointed advocate, for the respondent no. 2.

CORAM : KISHORE C. SANT, J.

DATE : 26TH MARCH 2024.

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PC:

1. Heard the learned advocate for the applicant, learned APP for the respondent- State and learned advocate for respondent no. 2.

2. This application is filed seeking suspension of sentence and release of the applicant on bail. The applicant is convicted by the learned extra Joint Additional Sessions Judge, Karad in Sessions Case No. 62 of 2021 by judgment and order dated 17th October 2022. The accused held guilty for the offences and punishment is awarded as below:

Sr. No	Sections	Punishment	Fine Amount
1.	354 of IPC	R.I. for 1 year	Rs. 1000/-, in default to undergo S.I. for 15 days
2.	7 and 8 of POCSO	R.I. for 3 years	Rs. 2000/-, in default to undergo S.I. for 1 month
3.	9(m) and 10 of POCSO Act.	R.I. for 5 years	Rs. 3000/-, in default to undergo S.I. for 1 month

3. It is the case of the prosecution that the victim was 9 years and 7 months of age and had gone to the flour mill run by the applicant for getting wheat grains flour at that time the accused had committed the sexual assault.

4. In the prosecution examined the five witnesses. On the basis of oral evidence the applicant came to be convicted.

5. Learned advocate appointed for the applicant vehemently submits that the place of the incident is not proved by the prosecution. There is no any evidence except oral evidence. Out of 5 years of sentence he has already suffered more than 17 months. During the trial also he was in jail. He submits that since it is a short sentence, the applicant deserves to be released on bail.

6. Learned APP as well as learned advocate for the respondent no.2 (appointed) vehemently opposes the application. They submit that the victim was below 10 years at the time of alleged incident and

the applicant was 62 years of age at that time, he has committed the offence with intention. They pray for rejection of the application.

7. This Court is mainly considering the application looking to the short sentence and the fact that out of 5 years the applicant has already undergone more than 17 months. It would be necessary to put the certain conditions in the interest of victim. Hence, the following order.

ORDER

- (a) Interim application is allowed.
- (b) Sentence awarded by the learned Extra Joint Additional Sessions Judge, Karad in Sessions Case No. 62 of 2021 shall stand suspended.
- (c) The applicant shall be released on bail on furnishing P.R.bond and solvent surety in the sum of Rs. 15,000/-. Fine amount is already paid.
- (d) The applicant shall not enter the jurisdiction of the Dhabewadi Police Station except for attendance of Police Station.
- (e) The applicant shall attend the police station on first Sunday of every month between 11:00 a.m to 1:00 p.m. He shall never contact the victim and her relatives.
- (f) The applicant shall furnish his contact details including mobile number to the concerned Police Station. If there is any change in the contact details, applicant shall

immediately inform the same to the concerned police station.

8. With this, the application stands disposed of.

(KISHORE C. SANT, J)