

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL INTERIM APPLICATION NO. 1870 OF 2024****IN****CRIMINAL APPEAL NO. 462 OF 2024**

Siddesh Sunil Gadkari

... Applicant

Versus

State of Maharashtra and Anr.

... Respondents

.....

Ms. Sana Raees Khan a/w. Mr. Onkar Bajaj, Mr. Aditya Parmar, Ms. Juhi Kadu and Mr. Rohan Kolakar, Advocates for the Applicant.

Mr. Shrikant H. Yadav, APP for Respondent No.1 – State.

Mr. Tanoj B. Kamble, Appointed Advocate for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.**DATED : 17th OCTOBER, 2024.****P.C. :**

1. By this application, applicant is seeking suspension of sentence and bail in special POCSO Sessions Case No. 681 of 2018. The applicant has been convicted for the offence punishable under Section 6 of Protection of Children from Sexual Offences Act, 2012 (for short “**POCSO Act**”) and sentenced to suffer rigorous imprisonment for 10 years and fine of Rs.10,000/- in default to undergo simple imprisonment for one month.

2. It is prosecution’s case that applicant had friendship with the victim aged 17 years old. When applicant had gone to the house of victim for study, in the week of March, 2017 he forcefully sexually assaulted her. Thereafter due to fear of applicant victim did not disclose the said incident

to anyone. Thereafter from July-2017 to August-2017 applicant repeatedly committed sexually intercourse with the victim. Due to fear of defamation and future of victim, victim and first informant, mother of the victim did not disclose the said fact to anyone, nor taken action against the applicant. First informant informed the victim not to contact the applicant. Victim then blocked the applicant on her facebook and other social networking sites. On 17.10.2018 victim found post from ID "RAPIST.SID" and also found some objectionable post from same ID. Therefore the informant approached Bhoiwada police station and lodged report against the applicant.

3. It is contention of learned counsel for the applicant that relationship between the applicant and victim were consensual. There is delay of 1½ year for lodging the complaint. Victim herself had called the applicant at her house. At the time of incident victim was more than 17 years 5 months old whereas applicant was 18 years old. Applicant is behind bar more than one year. He is karta of his family. It may take time to dispose of the appeal. During the trial applicant was on bail. He has no misused the liberty. Learned counsel further submitted that applicant's social site account was hacked and he had lodged complaint in that regard to the police station. In these circumstances, application be allowed.

4. It is contention of learned APP and learned counsel for

respondent No.2 that applicant forcefully sexually assaulted the victim. Applicant was aware about the age of the victim that she was below 18 years of age. Due to defamation and fear victim and first informant did not lodge the complaint against the applicant but applicant emboldened and he posted some objectionable post on the instagram account of the victim. The charges leveled against the applicant have been proved before the Special Court. Accordingly he has been convicted. If applicant released on bail he may abscond and requested to reject the application.

5. I have heard all learned counsel. Perused the Judgment and Order and evidence produced on record. There is delay of more than one year to lodge the complaint against the applicant. At the time of incident applicant was around 18 years old. He was on bail during the trial he has not misused the liberty. He is karta of his family. It may take time to dispose of the appeal. Considering these facts, I am inclined to allow the application.

6. In view of above, the applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of the appeal, on the following terms and conditions :

ORDER

- (i) The applicant be enlarged on bail on furnishing P.R.Bond in the sum of Rs.25,000/- with one or two

sureties in the like amount.

7. The Interim Application is allowed in the aforesaid terms and is accordingly disposed of.
8. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)

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