

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
INTERIM APPLICATION NO. 2242 OF 2024
IN
CRIMINAL APPEAL NO. 598 OF 2024

Hanumant Mahadu Darode

.... Applicant

Versus

Union Territory of Dadra and Nagar Haveli and Respondents
Ors.

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Mr. Meghdeep M. Oak a/w Diptendu Bose, for the Applicant.
Mr. Kumar Ali Shaikh a/w Mr. Harsh Dedia i/b H. s. Venegaonkar,
for Respondent No.1.
Ms. Shivani Jadhav i/b Ms. Krupali Rajani, for Respondent No.2.
Ms. Sangeeta D. Shinde, APP, for the Respondent – State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 14th OCTOBER, 2024.

P.C. :

1. By this application, applicant is seeking suspension of sentence and bail in Crime No.147 of 2022 and Sessions Case No.48 of 2022, the applicant has been convicted under Section 6 of the

Protection of Children from Sexual Offence Act, 2012 (for short “POCSO”) and sentenced to suffer Rigorous Imprisonment for 20 years and fine of Rs.2,000 in default to suffer Simple Imprisonment for one month. He has also been convicted for an offence punishable under Section 376 of Indian Penal Code (for short “IPC”) but no separate punishment is imposed on him.

2. Learned counsel for the Applicant submitted that there was love relationship between the applicant and victim. At the time of incident victim was 17 years and 14 days old whereas, the applicant was 20 years old. Applicant and victim eloped together and they have performed marriage. There was consensual relationship between them. There was no coercion of any nature upon the victim to indulge into sexual intercourse. The victim herself eloped with the applicant and on her own will she married with the applicant, the marriage has been registered but this evidence is not considered by the learned trial Court.

Learned counsel further submitted that during the trial applicant was on bail and he has not misused liberty. It may take time to dispose of the appeal and requested to allow the application.

3. It is contention of learned APP that along with learned

counsel for Respondent No.2 that applicant sexually assaulted the victim on multiple time. He was aware about that the age of victim, she was below 18 years. In spite of that he has sexually assaulted her and performed marriage with her. The charges levelled against the Applicant have been proved. If applicant released on bail, he may abscond. Hence, requested to reject the application.

4. I have heard all learned counsel. Perused the impugned judgment and order passed by Special Court. The evidence of victim at Exhibit-10 shows that she had love affair with the applicant and they decided to elope and marry.

5. In cross-examination, she has admitted that for performing marriage with Applicant she had taken initiative. The marriage certificate is at Exhibit-12. She further admitted that after marriage, she kept physical relations with the applicant.

6. Considering the evidence of the victim it appears that at the time of incident she was more than 17 years old. She had performed the marriage with the applicant. During the trial applicant was on bail and he has not misused liberty. At present Applicant is 22 years old and at the time of incident Applicant was 20 years old. It may take time to dispose of the appeal. The Applicant is behind

bar around two years. Considering these facts, I am inclined to allow the application.

7. 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. Application is allowed.

ii. 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.

8. The interim application is allowed in the aforesaid terms and is accordingly disposed of.

9. All concerned to act on the authenticated copy of this order.

(SHIVKUMAR DIGE, J.)