

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

CRIMINAL INTERIM APPLICATION NO. 2474 OF 2024
IN
CRIMINAL APPEAL NO. 756 OF 2024

Dattatraya Ashok Kate

.... Applicant

Versus

State of Maharashtra and Anr.

.... Respondents

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Mr. Pranav P. Badhekar, for the Applicant.

Ms. Ranjana Humane, APP, for Respondent No.1 – State.

Mr. Sandeep Karnik, Appointed Advocate for Respondent No.2.

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.397 of 2018 and POCSO Special Case No.1 of 2019. Applicant has been convicted by the learned Special Court under Section 363 of the Indian Penal Code, 1860 and under Section 7, 8, 9 (1) (m) (n) read with Section 10 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer

Rigorous Imprisonment for 5 years and to pay fine of Rs.10,000/- and for the offence under Section 363 of Indian Penal Code to suffer Rigorous Imprisonment of 6 years and pay fine of Rs.10,000/- in default to suffer Rigorous Imprisonment for 6 months.

2. It is prosecution's case that Applicant is the son of father's sister of victim. On 27th October, 2018 victim had gone to the house of Applicant. On 28th October, 2018 applicant took her to Jat and thereafter to Sangli at his grand mother's house. There at Jat Applicant beaten up the victim and slept on her stomach. At Sangli in his grand mother's house, he beaten up and slept on stomach of victim. On the report of Aunt of the victim the offence was registered against the applicant. After trial he is convicted as referred above.

Learned counsel for the Applicant submitted that during the trial applicant was on bail. He has not misused liberty. The higher punishment imposed on the applicant is of 6 years out of which applicant is behind bar for more than 2 years. It may take time to dispose of the appeal. Applicant is Karta of his family. Hence, requested to allow the application.

3. It is contention of learned APP along with learned counsel for the Respondent No.2 that Applicant had kidnapped the victim

and outraged her modesty. At the time of incident victim was 8 years old. The prosecution has proved the case against the applicant. If applicant is released on bail, he may abscond and requested to reject the application.

4. I have heard all learned counsel. Perused the judgment and order passed by the learned Special Judge. The higher punishment imposed on the applicant is 6 year. The Applicant is behind bar for more than 2 years. During trial he was on bail, he has not misused liberty. He is a Karta of his family. It may take time to dispose of the appeal. Considering these facts, I am inclined to allow the application.

5. 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.

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.)