

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
INTERIM APPLICATION NO. 3556 OF 2024
IN
CRIMINAL APPEAL NO. 963 OF 2024

Vishnu Vijay Mandal

.... Applicant

Versus

Union Territory of Dadra and Nagar Haveli and Respondents

Ors.

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Mr. Apporv Srivastava a/w Mr. Tanvir Kazi, for the Applicant.
Mr. Kumar Ali Shaikh a/w Mr. Harsh Dedhia i/b H. S. Venegaonkar,
for Respondent No.1.
Mr. Bhavik Pratap Manek, Appointed Advocate for Respondent No.2.
Mr. P. P. Jadhav, 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 Special Case No.30 of 2022 passed by learned Special judge, Union Territory Dadra and Nagar Haveli, at Silvassa.

Applicant has been convicted under section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short “POCSO”) and sentenced to suffer rigorous imprisonment for 20 years and pay fine of Rs.10,000/- in default to suffer imprisonment for six months.

2. It is prosecution’s case is that Applicant and his parents kidnapped the daughter of informant and taken to Bihar and she was kept in the house of applicant. When informant and his husband went there to bring back their daughter, Applicant and his parents misbehaved with them. It is alleged that the applicant had sexually assaulted the victim prior to kidnapping.

3. It is contention of learned counsel for the Applicant that applicant and victim had love affair. At the time of incident victim was more than 15 years and 8 months old whereas, the applicant was 19 years old. Victim herself had eloped with the applicant. Her parents were aware about the love relationship between the applicant and victim. When victim was allegedly kidnapped there were no allegations of sexual assault by the victim but these facts are not considered by the trial Court. During trial applicant was on bail. He has not misused liberty. Applicant is student, if he remained behind bar his life will be spoiled. It may take time to dispose of the

appeal and requested to allow the application.

4. It is contention of learned APP along with learned counsel for Respondent No.2 that applicant has sexually assaulted the victim who was below 16 years of the age. He kidnapped her from custody of her guardian.

Learned APP further submitted that charges levelled against the applicant have been proved and accordingly, he is convicted by the special Court. If he released on bail, he may abscond and requested to reject the application.

5. I have heard all learned counsel. Perused judgment and order passed by learned Special Court and evidence produced on record. It appears from the evidence of the victim that she had love affair with the applicant. Before the alleged incident, she was sexually assaulted by the applicant but she has not disclosed the said fact to any one. When she was allegedly kidnapped by the applicant, there were no allegations of sexually assault by the applicant. In the evidence of the victim it has come on record that she was not ready to go with her parents when she was staying with the applicant. Applicant was on bail during the trial, he has not misused liberty. He

is 21 years old. He is Karta of his family. It may take time to dispose of the appeal. Considering the above 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. 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.)