



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (APPA) NO. 1114 OF 2024 IN
CRIMINAL APPEAL NO. 660 OF 2024

SHEIKH GUDDU SHEIKH ASHIK VS STATE OF MAHARASHTRA

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. M.V.Rai, counsel for the applicant/appellant.

Mr. S.A. Ashirgade, Addl.PP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/11/2024.

1. By preferring this application, the applicant/appellant is seeking suspension of sentence and releasing him on bail in Special (Child Act) Case No. 29/2015 passed by the learned Special Judge (POCSO, Act), Wardha.

2. Learned counsel for the appellant submitted that, appellant was prosecuted of the offence punishable under Sections 451, 354A (1)(i)(ii) and 342 of the Indian Penal Code, 1860 (hereinafter referred to 'IPC'); and under Section 3(1)(xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989. The accused is sentenced to suffer rigorous imprisonment for one year and sentenced to pay fine amount of Rs. 1000/-, in default, payment of fine, accused is sentenced to suffer simple imprisonment for 15 days for the offence punishable under Section 451 of the IPC. He is further convicted of the offence punishable under Section 354A and sentenced to suffer rigorous imprisonment of three years and fine of

Rs. 3,000/-, in default of payment, the accused is sentenced to suffer simple imprisonment for one month.

The appellant is further convicted of the offence punishable under Section 342 of IPC and sentenced to suffer rigorous imprisonment for six months, and for the offence punishable under provisions of Atrocities Act, six months and fine of Rs. 500/-, in default, simple imprisonment for eight days.

3. Learned counsel for the applicant further pointed out from the impugned judgment that the learned trial Court has not considered the evidence in proper perspective and he has many arguable points in the present appeal, but the appeal would take its own time for its final decision. In the meantime, if the sentence is executed, the appeal would become infructuous.

4. The learned APP strongly opposed the said application on the ground that the appeal itself is devoid of merits and liable to be dismissed.

5. Having heard the learned counsel for the applicant and the learned APP, perused the impugned judgment. Considering the fact that a limited period of sentence is imposed on the present applicant as well as the appeal would take its own time for its final decision, and in the meantime, if the sentence is executed, the appeal would become infructuous. Moreover, the applicant has also made out the arguable points, which can be considered while

considering the appeal. In view of that, the execution of sentence deserves to be suspended.

6. In view of that, I proceed to pass following order:

- (i) The execution of sentence imposed in Special (Child) Case No. 29/2015 is hereby suspended till disposal of the appeal.
- (ii) The applicant shall be released on bail on executing P.R. Bond in the sum of Rs.25,000/- each with one solvent surety in the like amount.

7. The criminal application (APPA) No. 1114/2024 is disposed of.

CRIMINAL APPEAL NO. 660/2024

- 1. Heard.
- 2. **Admit.**
- 3. Learned APP waives service of notice on behalf of respondent/State.
- 4. Call for record and proceedings.
- 5. Appeal be listed before this Court after preparation of paper-book.

[URMILA JOSHI-PHALKE, J.]