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

CRIMINAL APPLICATION (APPA) NO. 617/2024

IN

CRIMINAL APPEAL NO. 364/2024

Pravin Roshanlal Bisen

...VERSUS...

State of Maharashtra

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

Court's or Judge's orders

Mr. S. Bhalerao, Advocate for the Appellant(s)

Mr. N. Joshi, APP for the Respondent/State

Ms. J.A. Deshpande, Advocate for the Respondent No. 2

CORAM :- M.S. JAWALKAR & M.W. CHANDWANI, JJ.
DECEMBER 16, 2024

(1) By this Application, the Applicant is seeking suspension of sentence. By the impugned judgment of conviction dated 01/02/2022, the learned Trial Court held the Applicant guilty for the offences punishable under Sections 376(2)(f)(m), 323 and 506 of the Indian Penal Code, 1860 and Section 235(2) of the Code of Criminal Procedure, 1973. The operative part of the impugned judgment is as under:-

"1 The accused Pravin S/o Roshanlal Bisen, Age 25 years, R/o Rajegaon, Tahsil and District Gondia, is found guilty for the offences punishable under Sections 376(2)(f)(m), 323 and Section 506 of the Indian Penal Code vide Section 235(2) of Code of Criminal Procedure.

2 The accused is convicted for the offence punishable under Section 376(2)(f)(m) of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment for Life which shall mean imprisonment for the remainder of his natural life and pay fine of Rs.1,000/- (Rs. One Thousand only). In default, he shall undergo rigorous imprisonment for Two (02) months.

3 The accused is convicted for the offence punishable under Section 323 of the Indian Penal Code vide Section 235 (2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment for One (01) year and pay fine of Rs.500/- (Rs. Five Hundred only). In default, he shall undergo rigorous imprisonment for One (01) month.

4 The accused is convicted for the offence punishable under Section 506 of the Indian Penal Code vide Section 235 (2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment for One (01) year and pay fine of Rs.500/- (Rs. Five Hundred only). In default, he shall undergo rigorous imprisonment for One (01) month.

5 The substantive sentence shall run concurrently vide Section 31 of Code of Criminal Procedure.

6 The period of inquiry, investigation and trial undergone by the accused Pravin S/o Roshanlal Bisen, since 22.08.2021 till today i.e. 01.02.2022 (05 Months and 10 days), be set off vide Section 428 of the Code of Criminal Procedure.

7 The accused shall pay compensation of Rs.1,00,000/- (Rs. One Lakh Only) to PW-1 'X', age 53 years, Resident of Rajegaon,

Tahsil and District Gondia (detailed as per charge-sheet) within six months from today vide Section 357(3) of the Code of Criminal Procedure. Failing which, he shall suffer rigorous imprisonment for Three (03) years.

8 *Muddemal articles i.e. Memory Cards, Chadar (Bed-Sheet), Mattress Cover, pieces of bangles, clothings, etc. being worthless, be destroyed after expiry of appeal period or finality of appeal, if any.*

9 *The District Legal Service Authority is recommended to pay compensation to the victim within the ambit of Section 357-A(2) of the Code of Criminal Procedure. A copy be forwarded to it for further process.*

10 *A copy of the judgment be given to accused in gratis and forwarded to District Magistrate, Gondia vide Section 353(4) and 365 of the Code of Criminal Procedure respectively.*

11 *The accused is appraised of provision of appeal.*

Judgment dictated and pronounced in open Court. ”

(2) Learned Counsel for the Applicant submitted that the only fault with the Applicant is that he was habitual in consuming liquor. According to him, the Applicant has not committed any offence and just to get rid of his drunkenness, false case has been registered against him by his mother. According to him, the Applicant has no source of income. Hence, he is unable to deposit the amount of compensation

of Rs. 1,00,000/-. He has chances to get succeed in the Appeal. Hence, the Applicant seeks suspension of sentence.

(3) *Per contra*, the learned APP objected the Application on the ground that the son has committed rape on her mother. The said offence is a shocking and beast incident to the conscious of the Society. Hence, he seeks rejection of the Application.

(4) Learned Counsel appearing for the victim also opposed the Application on the same contentions as stated by the learned APP.

(5) Having heard the learned Counsel for the respective parties, having gone through the impugned judgment and deposition of the victim mother, it appears that the Applicant has been convicted solely on the testimony of the victim. We find that the victim is none other than the mother of the Applicant. She has given the account of incident in detail. Considering the material available on record against the Applicant, particularly the version of the victim and other corroborative evidence, we are of the opinion that no case is made out by the Applicant for suspension of sentence.

(6) Consequently, the Application fails and is accordingly **rejected**.

(M.W. CHANDWANI, J.)

(M.S. JAWALKAR, J.)