



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3082 OF 2024
IN
CRIMINAL APPEAL NO. 883 OF 2024

Abhishek Ankush Musale,
Age : 22 years, Occu. : Labour,
R/o. Somnath Borgaon, Tq. Ambejogai,
At present R/o. Chitegaon,
Tq. & Dist. Aurangabad.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Inspector,
Bidkin, Tq. Paithan, Dist. Aurangabad

2. X.Y.Z.

... Respondents

.....

Mr. M. L. Wankhede, Advocate for applicant (Through V.C.).
Mr. N. D. Batule, APP for Respondent – State.
Mr. Sunil Nimbalkar, Advocate for Respondent No.2 (Appointed).

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CORAM : ABHAY S. WAGHWASE, J.

DATED : 09 APRIL 2025

ORDER :

1. Present application is for suspension of sentence and grant of bail on account of conviction recorded by learned Special Judge (POCSO), Aurangabad in Special Case (POCSO) No.191 of 2022 dated 07.05.2024 for offence punishable under section 363 of Indian Penal Code.

2. It is pointed out that, applicant was tried vide above

Special Case by learned Special Court and by judgment and order dated 07.05.2024 he is held guilty for offence punishable under section 363 of IPC and he is acquitted under sections 376(2)(j)(n) of IPC and sections 4 and 6 of POCSO Act. That, sentence awarded for section 363 of IPC is of one year and to pay fine. That, the fine amount is already paid. That, applicant was on bail during trial. That, exception has been taken by filing appeal, but the same being of 2024, much more time would be required to hear and decide the same. Hence, prayers for suspension of sentence and grant of bail.

3. Learned APP opposed on the ground that on full-fledge trial, conviction has been recorded and he also apprehends misuse of liberty.

4. Heard. Sentence awarded is apparently one year and to pay fine which is reported to be paid. Appeal against judgment and order of conviction is of 2024. There are no immediate prospects of hearing the appeal in near future. Applicant was on during bail during trial. Hence, the following order is passed :-

ORDER

I. Criminal Application stands allowed.

II. The substantive sentence imposed on the applicant Abhishek Ankush Musale in Special Case (POCSO) No.191 of 2022 by learned

Special Judge (POCSO), Aurangabad on 07.05.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.883 of 2024.

III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties in the like amount.

IV. The applicant shall not commit any criminal activity.

V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.

VII. Bail before the trial court.

VIII. Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)