



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4301 OF 2024
IN
CRIMINAL APPEAL NO.935 OF 2024

Ganesh S/o. Haribhau Shinde,
Age : 26 years, Occu. : Agriculture,
R/o. Shekta, Tq. Paithan,
Dist. Chhatrapati Sambhajinagar

... Applicant
(Orig. Accused No.1.)

Versus

1. The State of Maharashtra,
Through Police Station,
Bidkin Police Station, Aurangabad

2. X.Y.Z.

... Respondents.

.....
Mr. Aadesh R. Ban h/f. Mr. R. V. Gore, Advocate for Applicant
Mr. V. M. Jaware, APP for Respondent – State.
Ms. Falguni M. Kulkarni, Advocate for Respondent No.2 (Appointed)
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CORAM : ABHAY S. WAGHWASE, J.

DATED : 21 JANUARY, 2025

ORDER :

1. In instant application prayers are raised for suspension of sentence and grant of bail as a result of conviction recorded by learned Special Judge and Additional Sessions Judge-10, Aurangabad in Special Case Child Prot.No. 49 of 2017 for offence punishable under sections 354-D of Indian Penal Code.

2. Learned counsel for applicant pointed out that, crime

bearing no.11 of 2017 was registered at Bidkin Police Station, Aurangabad alleging offence under section 354-D, 323, 504, 506 r/w section 34 of IPC and section 12 of the Protection of Children from Sexual Offences Act along with section 3(1)(w)(i), (ii), and section 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. That, trial was conducted and learned trial court has convicted present applicant, but only for offence under section 354-D of IPC and he is acquitted from rest all offences. That, sentence awarded is of one year and to pay fine and compensation is also awarded. That, there is challenge to the said judgment and order by filing appeal before this court, but it being of 2024, it would take long time to be heard and therefore applicant seeks relief of suspension of sentence and grant of bail.

3. Learned APP as well as learned counsel for victim, both opposed on the ground that, serious offence is proved to be committed and that there is every possibility of misuse of liberty.

4. After considering the above submissions and on going through the papers, it is emerging that, above crime was registered for above offences at the instance of informant victim, who is said to be 15 years of age. Precise allegations are that, when the victim was going to school, applicant teased her and made gestures in

obscene manner. Apparently, on trial out of all above offences, conviction is recorded for only offence under section 354-D of IPC and maximum sentence awarded is of one year.

5. Taking the quantum of sentence into consideration and appeal being of 2024 and there being no immediate prospects of hearing the appeal, relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

I. Criminal Application stands allowed.

II. The substantive sentence imposed on the applicant Ganesh S/o. Haribhau Shinde in Special Case Child Prot.No. 49 of 2017 by learned Special Judge (SC & ST Act) and Additional Sessions Judge-10, Aurangabad on 27.08.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.935 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.)