



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4559 OF 2024

IN

CRIMINAL APPLICATION NO. 1822 OF 2020

IN

CRIMINAL APPEAL NO. 536 OF 2020

Shivaji @ Pintu Bhabuta Mali

Age : - Major, Occu:- Nil,

R/o. At present Nashik Road Central Prison,
Nashik.

.... Applicant

Versus

1. The State of Maharashtra

2. X Y Z

.... Respondent

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Mr. Arun G. Dalal, Advocate for the Applicant.

Mr. V. M. Jaware, APP for Respondent-State.

Mr. D. G. Kamble, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 23.01.2025

Pronounced on : 27.01.2025

ORDER :

1. Heard. Leave to add victim as respondent no.2. Amendment be carried out forthwith. Learned counsel Mr. Kamble, who is appointed to represent victim in appeal, waives notice.

2. Present application is for modification of condition no. iii. imposed by this Court while granting bail to the applicant in Criminal Application No. 1822 of 2020.

3. Learned counsel for the applicant pointed out that applicant was convicted for offences punishable under sections 363, 366, 376(2) (i) of IPC and Sections 4 and 6 of the POCSO Act vide judgment and order dated 28.02.2020 passed by learned Sessions Judge, Nandurbar in Special Case No. 23 of 2018. That, against said order, appeal has been preferred and the same is pending. He further pointed out that Criminal Application No. 1822 of 2020 was moved for suspension of sentence and grant of bail and after hearing both sides, this Court was pleased to grant bail by imposing condition. That, condition imposed was of furnishing PR bond of Rs.25,000/- with one or more sureties in the like amount. That, applicant, in spite of his best efforts, could not arrange for the surety, for want of which, he is still languishing in jail. Hence, as he is unable to arrange surety as directed, learned counsel prays for modification of condition and reducing the surety amount.

4. Learned APP as well as learned counsel for respondent no.2 both put up formal objection.

5. After perusing the papers, it seems that on account of conviction recorded by learned Sessions Judge, Nandurbar, appeal has been preferred. Papers show that Criminal Application No. 1822 of 2020 was pressed into service praying suspension of sentence and grant of bail and this Court, by order dated 12.10.2021, has even allowed the said application and granted bail to the applicant by imposing condition at clause (iii) of the operative part of the order which reads as under :

“iii. The applicant be released on bail on executing the PR bond of Rs.25,000/- [Rupees Twenty Five Thousand] with one or more sureties in the like amount.”

6. Apparently and unfortunately, in spite of order dated 12.10.2021, for want of compliance of the above condition, applicant is still behind bars. Taking the above submissions into consideration, the condition at clause (iii) of the operative part of the order dated 12.10.2021 is modified to the following extent :

“iii. The applicant be released on bail on executing the PR bond of Rs.15,000/- [Rupees Fifteen Thousand] with one cash surety in the sum of Rs.3,000/- [Rupees Three Thousand]”

7. In case applicant is still unable to comply with the above modified condition, then, the High Court Legal Services Subcommittee, Aurangabad to do the needful to give effect to the release of applicant on bail.

8. The application is disposed off in above terms.

9. Parties to act on an authenticated copy of the order.

[ABHAY S. WAGHWASE, J.]

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