



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.5047 OF 2024
IN
CRIMINAL REVISION APPLICATION NO. 329 OF 2024

Sainath S/o. Manikrao Jadhav,
Age : 60 years, Occu. : Driver,
R/o. Deolai, Tq. & Dist. Aurangabad ... Applicant

Versus

The State of Maharashtra ... Respondent

.....
Mr. A. V. Bagal, Advocate for Applicant.
Mr. C. V. Bhadane, APP for Respondent – State.
Ms. M. B. Jain, Advocate for Informant.
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CORAM : ABHAY S. WAGHWASE, J.
DATED : 02 JANUARY 2025

PER COURT :-

1. In instant application, there are prayers for suspension of sentence and grant of bail as result of conviction recorded by learned Additional Sessions Judge, Chhatrapati Sambhajinagar, dated 11.12.2024 in Criminal Appeal No. 71 of 2021 arising out of judgment and order dated 30.11.2021 passed by learned Judicial Magistrate First Class, Aurangabad in R.C.C. No.706 of 2014 convicting present applicant for offence punishable under section 354-A of Indian Penal Code and sentencing him to suffer three months imprisonment and to pay fine.

2. It is pointed out that, in this case, vacation court already issued notice and matter was kept today. However, on going through the papers, it seems that, offence is under section 354-A of IPC and informant is not shown as a party. It is merely pointed out that, sentence is of three months and applicant is behind the bars since 11.12.2024.

It seems that, on 24.12.2024, vacation bench issued notice to the respondent State and matter was made returnable today. Noticing that offence is of section 354-A, this court thought it fit to appoint counsel to protect the interest of informant. Consequently, considering the time lapsed since applicant being behind bars and moreover, considering the actual quantum of sentence awarded and as much more time would be spent in issuing notice to the informant and adjourn the matter, this court thought it fit to appoint counsel. Hence, learned Advocate Ms. M. B. Jain, present in the court, is hereby appointed to espouse the cause and protect the interest of respondent No.2 informant.

3. Learned counsel for applicant in support of relief pointed out that there is false implication. That, there is no independent convincing evidence except version of victim, who is 50 years of age

and mother of a child. That, there is implication for commission of offence punishable under section 354-A of IPC. Learned counsel further pointed out that learned trial court accepted the prosecution story and convicted the applicant for offence punishable under section 354-A of IPC. That, present applicant preferred appeal before Additional Sessions Judge, Chhatrapati Sambhajinagar and the same came to be dismissed by judgment and order dated 11.12.2024 against which applicant has preferred Criminal Revision Application No.329 of 2024, but it would take some more time to be heard and decided. Pointing to the quantum of sentence and nature of allegation, learned counsel prays for suspension of sentence and grant of bail. Learned counsel for applicant pointed out that fine amount is already paid.

4. Learned APP as well as learned counsel for respondent no.2 informant strongly opposed the application, stating that, serious offence has been committed. That, on full-fledge trial, conviction is recorded. That, even appellate court dismissed the appeal and for all above reasons, they both pray to refuse the relief as prayed.

5. After considering the submissions and on going through the papers, it seems that, FIR was lodged on 31.01.2014 by

Chikalthana Police Station, wherein allegations were levelled that, applicant was residing in the same vicinity of informant. At around 2:30 a.m., applicant gave knock to the door of informant. Thereafter, when she questioned him for giving knock and interacted with him through the window, it is alleged that, applicant expressed his desire to commit rape on her. Therefore, above report was lodged. Admittedly, on her report, crime is registered vide Crime No.26 of 2014 for offence punishable under sections 354-A and 506 of IPC.

6. Papers show that, learned J.M.F.C. convicted applicant vide order dated 30.11.2021 and appeal against the same was dismissed on 11.12.2024 by the learned Additional Sessions Judge. Offence under section 354-A of IPC said to be proved and sentence awarded as it appears from operative part of the judgment is three months and to pay fine. Statement is made across the bar that fine amount is already paid. Admittedly, judgment and orders of both, trial court as well as appellate court are questioned by filing revision and the same is of 2024. There are no immediate prospectus of hearing the revision and consequently, considering the quantum of sentence and nature of allegations, 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 Sainath S/o. Manikrao Jadhav by learned J.M.F.C. Aurangabad in R.C.C. No.706 of 2014 and as confirmed by learned Additional Sessions Judge, Chhatrapati Sambhajanagar on 11.12.2024 stands suspended till the final hearing and disposal of Criminal Revision Application No.329 of 2024.
- iii] The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.
- iv] The applicant shall not commit any criminal activity.
- v] Bail before the trial court.
- vi] Fees of learned Advocate, who is appointed to represent cause of informant is to be paid by the High Court Legal Services Sub - Committee, Aurangabad as per rules.

[ABHAY S. WAGHWASE, J.]