



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

Criminal Application (APPA) No. 317 of 2024
in
Criminal Appeal No. 163 of 2024

Smt. Seema Premal Chadi

Versus

State of Maharashtra through Police Station Officer, Police Station
Lakadganj, Nagpur, District Nagpur

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

Court's or Judge's Order

Shri R.M.Patwardhan, Advocate for the applicant.
Ms. Sneha Dhote, APP for the non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 27th JANUARY, 2025.

By this application, the applicant is seeking suspension of sentence and releasing her on bail. The applicant was prosecuted for the offence punishable under sections 370, 378, 344 of Indian Penal Code, under sections 5, 6 and 7 of the Immoral Traffic (Prevention) Act, 1956 and Sections 8 and 12 of the Protection of Children from Sexual Offences Act.

2. Heard learned counsel for the applicant. He submitted that the report Exhibit 14 dated 15th

September, 2022 in the police station Lakkadganj reveals that the minor victim who was residing on the road was brought to the present applicant by another women and the present applicant has handed over the victim to her sister and that was her sister who was assaulting her and the present applicant was taking care of the child of the sister of the present applicant. As far as the allegations regarding the present applicant is concerned, either transporting her or harbour her for illegal purpose she has not stated anything. He has also pointed out from the impugned judgment that application of section 370 and punishment imposed under Section 370 of the Indian Penal Code itself is doubtful as the section itself is not applicable. He submitted that the appeal takes its own time for final disposal. In the meantime, if the sentence is executed the appeal would become infructuous. He further submitted that the applicant is behind bar since 15th September, 2022. Thus, she has approximately undergone two years of the punishment. The punishment is of the limited period. Thus, all the above grounds the execution of the sentence be suspended and the appellant be released on bail.

3. Learned Additional Public Prosecutor strongly opposed the said application on the ground that

the appeal itself is devoid of merit, therefore the application deserves to be rejected.

4. After hearing both the sides and on perusal of the evidence of the victim as well as the other witnesses and the impugned judgment, the learned counsel for the applicant has pointed out that he has many arguable points in the present appeal. Admittedly, the appeal would take its own time for certain decisions. The appellant has already undergone approximately two years of the punishment. The appeal would take its own time for final disposal.

5. Considering the nature of the evidence and considering the fact that there are grounds to show that the appellant has fair chances of acquittal. In view of that the criminal application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

(i) The Criminal Application No. 317 of 2024 is allowed.

(ii) The execution and operation of the sentence imposed by the Extra Joint District Judge-4 (POCSO), & Additional Sessions Judge, (Special Court POCSO) Nagpur in Special (POCSO) Case No.587/2022 is hereby suspended till the disposal of the appeal.

(iii) The appellant shall be released on bail on executing PR Bond of Rs.25,000/- with one solvent surety in the like amount.

(iv) The appellant shall attend the Extra Joint District Judge- 4 & Additional Sessions Judge, (Special Court POCSO) Nagpur till disposal of the appeal on 5th of every month and the Special Court shall record her presence.

6. Criminal application No. 317 of 2024 is disposed of.

Criminal Appeal No. 163 of 2024

Appeal is already admitted.

2. Record and proceeding is already received.

3. Appeal be listed for the final disposal after preparation of the paper book.

[URMILA JOSHI-PHALKE, J.]