



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

CRIMINAL APPLICATION [APPA] NO.1171 OF 2024

IN

CRIMINAL APPEAL NO.694 OF 2024

[Sachin Govindrao Bawane .vs. The State of Maharashtra]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Arjun V. Bobade, Advocate h/f Mrs. S.A. Jadhao, Advocate for Applicant.
Mr. Ganesh Umale, APP for Respondent/State.

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Coram : Nitin B. Suryawanshi and M.W. Chandwani, JJ.
Dated : January 07, 2025.

By the present application, the applicant seeks suspension of substantive sentence which has been imposed by the learned Additional Sessions Judge, Nagpur in Special Criminal (Child) Case No.143 of 2017, whereby the applicant along with other co-accused have been convicted for offence punishable under Section 376-D of the Indian Penal Code and sentenced him along with other co-accused to suffer rigorous imprisonment for life and to pay a fine of Rs.10,000/-. He is further convicted for the offence punishable under Section 363 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.5,000/-. He is further convicted for the offence punishable under Section 506 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment of one year and to pay fine of Rs.3,000/-.

2. Mr. A.V. Bobade, learned counsel appearing on behalf of applicant, submitted that there are various contradictions and

omissions in the version of the applicant vis-a-vis her friend Renu due to which the story of the prosecution is liable to be disbelieved. The deposition of the victim-girl cannot be believed in the wake of the fact that she was wandering entire day in the Nagpur, but did not disclose the incident to anybody. According to him, the D.N.A. samples for D.N.A. profiles were taken after six days of the supplementary statement of the victim-girl. The appeal will take considerable time and in the meanwhile, the applicant may be released on bail by suspending substantive sentence. To buttress his submission, he seeks to rely on the decision of the Supreme Court in case of *Kashmira Singh .vs. State of Punjab*, reported in (1977) 4 SCC 291, wherein the Supreme Court has observed that if the court has no time to hear the appeal within reasonable time, unless there is cogent reason for acting otherwise release the accused on bail in cases where special leave has been granted to the accused to file appeal against his conviction and sentence.

3. Learned APP objected the application on the ground that the victim's evidence is corroborated by her friend Renu. The victim-girl is minor. The medical evidence also supports the case of victim and, therefore, sought rejection of the application.

4. Having heard the learned counsel for the respective parties and having gone through the impugned judgment and depositions, it is transpired that the applicant has been tried for the offence punishable under Section 376-D of the Indian Penal Code on the allegation that the victim-girl along with three girls fled away from the Government Girls Hostel, Nagpur. The applicant along with other co-accused Krishna trapped the victim-girl and took her to a

flat at Khamla and committed rape on her one by one along with one more co-accused. On next day, other four co-accused committed rape on victim.

5. The learned trial Judge believed the version of the victim girl as well as her friend Renu and also by relying on the medical evidence, convicted the applicant along with other co-accused and sentenced them with imprisonment mentioned hereinbefore.

6. We have gone through the version of the victim-girl. She has given detail account of the incidents. Her version is also corroborated by her friend Renu. The medical evidence shows injury on fourchette with fresh bleeding. D.N.A. report specifically shows that mixed D.N.A. profile obtained from Exh.7 Condom contains D.N.A. profile of the victim, as well as the applicant. Having regard to the material against the applicant, we are prima facie satisfied that there is no patent infirmity in recording the conviction against the applicant by the trial court. The exercise of re-appreciating of the evidence of the witnesses can be done at the time of hearing of the appeal.

7. Considering the facts of the present case and in view of the fact that the appeal is having been filed recently, the case of *Kashmira Singh* (supra) will not be helpful to the applicant. In view of above, the application is **dismissed**.

(M.W. Chandwani, J.)

(Nitin B. Suryawanshi, J.)