

Bharat Budha Koli vs The State Of Maharashtra And Another on 5 July, 2024

2024:BHC - AUG:13219

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906-APPLN.975.2024

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.975 OF 2024
IN
CRIMINAL APPEAL NO. 215 OF 2024

Bharat Budha Koli.
Age:- 35 Years, Occu- Labour,
R/o:- Indira Nagar, Shingave,
Tal- Shirpur, Dist- Dhule.

Applicant
(Orig. Accus

Versus

1. The State of Maharashtra,
2. XYZ
Through its Guardian
XYZ

Respondents.

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Mr. R. L. Jakhade h/f. Mr. Mr. S. A. Kulkarni, Advocate for Applicant.
Mrs. Uma S. Bhosale, APP for Respondent - State.
Mr. Mukul Deshmukh, Advocate for Respondent No.2 (V.P. Not filed).
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CORAM : ABHAY S. WAGHWASE, J.
RESERVED ON : 2nd JULY, 2024
PRONOUNCED ON : 5th JULY, 2024

ORDER :

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1. Convict in Special (POCSO) Case No. 85 of 2019 is praying for suspension of sentence and grant of bail during pendency of Criminal Appeal No.215 of 2024 filed by present applicant.

2. In support of relief, learned counsel for applicant 906-APPLN.975.2024 submitted that, applicant was charge-sheeted and tried for above offenses punishable under sections 376(i), 376(1) of Indian Penal Code (IPC) and section 6 of Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and is held guilty only for offence punishable under section 376(1) and section 6 of POCSO Act

and is sentenced to suffer rigorous imprisonment for 10 years and to pay fine. That, he has already undergone five years imprisonment. That, there is no supportive medical evidence. That, he has a good case on merits in appeal and for above reasons, it is prayed that, sentence be suspended and bail be granted to the applicant during pendency of appeal.

3. Learned APP as well as learned Advocate for victim both strongly opposed the application pointing out that, victim was barely 12 years of age and she was differently abled child. Finding her alone, she was ravished. On the strength of nine witnesses, prosecution has established the charges. That, there is supportive medical evidence. Therefore, offence being serious and grave, they both prayed to reject the application.

4. After considering the above submissions and on going through the papers, it seems that, present applicant has faced trial vide Special (POCSO) Case No. 85 of 2019 and is ultimately held 906-APPLN.975.2024 guilty by the judgment and order dated 30.01.2024 for offence punishable under section 376(1) and section 6 of POCSO Act. Perused oral evidence. Case against him was that he has committed rape on a victim, who is barely 12 years of age and moreover differently abled child.

Considering the serious nature of offence, though applicant is behind the bars since five years, this court does not deem it a fit case to extend the relief as prayed.

5. The criminal application stands rejected.

(ABHAY S. WAGHWASE, J.) Tandale